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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 MARK I. SOKOLOW, et al.,

4 Plaintiffs,

5 v.

04 CV 397 (GBD)

6 PALESTINE LIBERATION  
7 ORGANIZATION, et al.,

8 Defendants.

9 New York, N.Y.  
10 February 5, 2015  
9:45 a.m.

11 Before:

12 HON. GEORGE B. DANIELS,

13 District Judge

14 APPEARANCES

15 ARNOLD & PORTER LLP  
Attorneys for Plaintiffs

16 BY: KENT A. YALOWITZ  
17 PHILIP W. HORTON  
TAL MACHNES  
18 SARA PILDIS  
CARMELA T. ROMEO  
RACHEL WEISER

19 MILLER & CHEVALIER, CHARTERED  
Attorneys for Defendants

20 BY: MARK J. ROCHON  
21 LAURA G. FERGUSON  
BRIAN A. HILL  
22 MICHAEL SATIN  
DAWN E. MURPHY-JOHNSON

23 Also present: RACHELLE AVITAL, Hebrew interpreter  
24 RINA NE'EMAN, Hebrew interpreter  
25

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(Jury not present)

THE COURT: Good morning. We're still missing two.

Mr. Yalowitz, what's your schedule for today?

MR. YALOWITZ: We have got six on schedule for today, five for tomorrow. If we move through faster, we could do a seventh today and end early tomorrow, although, candidly, six is a lot to hear from. But we're where I thought we would be despite the snow and despite some of the travel delays. So I think we're in pretty good shape.

The only thing I think I have that I need from you on my case, we submitted a letter last night about that Abdullah Barghouti verdict. Basically, the defendants asked us to redact the Hamas Operative A from that, not from the one about -- not from the custodial statements of Noor, but from Abdullah.

THE COURT: I had a different position, I thought I stated it, I want every single redaction to be the exact same blank. You're not supposed write in anything over redaction, all should be blank redactions.

MR. YALOWITZ: I understood that, and we did that, but in reviewing that particular document it appeared to me -- I looked at it personally, and it appeared to me that in our haste to get it redacted back right before the night before Kaufman went on, there was more redacted than was appropriate, given your rulings.

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1 THE COURT: Do you both agree on that?

2 MR. YALOWITZ: I doubt it. We can't seem to agree on  
3 much, as you know.

4 THE COURT: I don't know, since -- I read the letter,  
5 but I don't know which redaction you're talking about, I don't  
6 have a view on this.

7 MR. YALOWITZ: Why don't we hear from the defendants.

8 MR. ROCHON: We'll be responding this afternoon in  
9 writing if there's any further issues on it.

10 THE COURT: Do you anticipate there will be further  
11 issues on it?

12 MR. ROCHON: I truly don't know now. We're checking  
13 to see what the redactions are. They may be non-controversial.  
14 I have zero opinion. But someone else is working on it.

15 THE COURT: Well, see if you can resolve that as  
16 quickly as possible. Otherwise, someone will have to give me  
17 what the redactions are and what the issue is.

18 MR. YALOWITZ: We'll wait to hear from the defendants  
19 on that. We did redact that wording as you directed, and in  
20 addition to that, there were aliases of two of the individuals  
21 in the Barghouti conspiracy, they were call Salah 1 and Salah  
22 2, and we also redacted those code names because we thought it  
23 was consistent with the way you had instructed. So the issue  
24 is not -- those had not been redacted before, we don't have a  
25 problem with that, and even if we did, I think your ruling was

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1 clear.

2 THE COURT: The part that you want unredacted, if you  
3 could just give me that page, I can look at it so if there is  
4 an issue I can quickly resolve. If there's not an issue then I  
5 don't have to deal with it.

6 MR. ROCHON: One of the things is I don't think the  
7 letter identified what the new redactions are.

8 THE COURT: I agree. It doesn't even identify what  
9 the old redactions are, so I don't know where the redaction is,  
10 you will have to --

11 MR. ROCHON: Because the document itself is lengthy,  
12 we don't want to miss any, so plaintiffs are willing to share  
13 with the Court and us what the changes are, not in compliance  
14 with the Court's orders, but the ones they think were mistaken  
15 before, our review will be a lot faster, that would be helpful  
16 for the Court, certainly for us.

17 THE COURT: I could resolve it in seconds if I know  
18 what you want unredacted.

19 MR. YALOWITZ: I think the best way to do it -- we're  
20 still waiting for jurors, but I think the best way to do it is  
21 I can walk you through it.

22 THE COURT: Tell me what document I'm supposed to be  
23 looking at? Is it in a binder?

24 MR. YALOWITZ: I need the July 31st binder, which we  
25 must have twelve copies of.

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1 THE COURT: I have the July 31st binder.

2 MR. YALOWITZ: And then you also need my letter of  
3 last night.

4 THE COURT: Not really, because it doesn't tell me  
5 what the unredacted portion is.

6 MR. YALOWITZ: I think if you give me a little leeway  
7 I can walk you through it.

8 THE COURT: Point me to the document in the language,  
9 that's all.

10 MR. YALOWITZ: So what do you want to know, what is  
11 newly redacted or newly unredacted?

12 THE COURT: No, you said there was a portion that you  
13 redacted in haste, then you want to unredact it.

14 MR. YALOWITZ: Correct.

15 THE COURT: And I wanted to know if we had any issue  
16 with that. So just tell me which one that is and what line  
17 that is and we can resolve that right now.

18 MR. YALOWITZ: So I need the July 31st binder to do  
19 that.

20 THE COURT: Under whose name?

21 MR. YALOWITZ: Abdullah Barghouti.

22 THE COURT: Which exhibit?

23 MR. YALOWITZ: It's Exhibit 452.

24 THE COURT: What page?

25 MR. YALOWITZ: I'm running a little blind, Judge,

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1 but -- I've got the binder. Let me find an example.

2 THE COURT: I don't need an example, I want the actual  
3 part that you want unredacted.

4 MR. YALOWITZ: Turn to the third page, second count,  
5 so there's a paragraph that begins in May 2001 the defendant  
6 turned to blank, so that is all fine, we don't want to change  
7 that, but then there's some whited out wording and the whited  
8 out wording says a military operative in Hamas, and I want to  
9 put that back.

10 THE COURT: You have the total unredacted page --

11 MR. YALOWITZ: Yeah.

12 THE COURT: -- I can read?

13 MR. YALOWITZ: Yeah.

14 THE COURT: Let me see the total unredacted page.

15 MR. YALOWITZ: I'm going to hand up to your Honor a  
16 completely clean copy.

17 THE COURT: So that's page 3. Anything other than  
18 that?

19 MR. YALOWITZ: Yes, so let's just go to the next  
20 paragraph, in late 2001 --

21 THE COURT: Yes.

22 MR. YALOWITZ: -- in Ramallah or thereabouts -- sorry,  
23 let's stick with that paragraph.

24 THE COURT: The same thing in the next to the last  
25 line.

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1 MR. YALOWITZ: Correct. And then the same thing in --  
2 the same concept in the next paragraph, and then --

3 THE COURT: When you say the same concept, I don't see  
4 that concept.

5 MR. YALOWITZ: So in late 2001 in Ramallah, or  
6 thereabouts, the defendant met blank, known as, and then there  
7 it's whited out and that says Salah 1, that redaction we  
8 propose to do, so that should be redacted. And then it says or  
9 the blank, which we would leave redacted, the head we would  
10 leave redacted but put back of the Izz Adin Al Aqsa Brigades in  
11 Ramallah area.

12 THE COURT: Anything else?

13 MR. YALOWITZ: Just to keep going, if you go to the  
14 sixth count, which is like page 7:31 --

15 THE COURT: Say it again?

16 MR. YALOWITZ: Sure, it's -- if you're looking at the  
17 pages in the center, it's page 3. If you're looking at the  
18 Bates numbers it's 7:31, continued. And if you're looking at  
19 the counts, it's the sixth count. And if you want me to come  
20 up, I could show you where it is.

21 THE COURT: 7:31?

22 MR. YALOWITZ: Yes, sixth count. So second to last  
23 paragraph the defendant transferred the first explosive device  
24 to blank, that's fine, and then where it's currently whited out  
25 we would put back a senior military activist in Hamas.

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1 THE COURT: Okay.

2 MR. YALOWITZ: And then the next paragraph there's  
3 also a redaction of a senior military operative in the Hamas  
4 organization.

5 THE COURT: All right.

6 MR. YALOWITZ: And now I'm going to turn one more page  
7 to go to the next one, and we're on the ninth count, the  
8 above-mentioned defendant at the time set forth, in Nablus or  
9 thereabouts, met blank, that's fine, then we want to add back a  
10 senior military operative in Hamas.

11 THE COURT: Okay. So I get it. The only part I don't  
12 get is the --

13 MR. YALOWITZ: Let me take you to the next one because  
14 the next one is a little different and I want to make sure that  
15 I highlight that.

16 THE COURT: Go ahead.

17 MR. YALOWITZ: On the 10th count, which is on the same  
18 page we are just looking at, paragraph one, in early July 2001  
19 in Nablus or thereabouts, the defendant met blank, a senior  
20 military operative in the Hamas organization would be put back  
21 just like we have been talking about. But then there's another  
22 sentence that is whited out, blank informed the defendant that  
23 he had a person who was prepared to carry out a suicide attack  
24 inside Israel. That is a statement in furtherance of the  
25 conspiracy, that ought to be put back.



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1 THE COURT: What ought to be put back, the name of the  
2 person?

3 MR. YALOWITZ: No, not the name, I don't care about  
4 the name.

5 THE COURT: I'm looking at the unredacted, so we're on  
6 page what, 7:33?

7 MR. YALOWITZ: 7:32, 10th count.

8 THE COURT: Which number?

9 MR. YALOWITZ: Details of the offense.

10 THE COURT: One or two?

11 MR. YALOWITZ: Number one and two, but start with one.

12 THE COURT: I saw number one.

13 MR. YALOWITZ: So there's a blank.

14 THE COURT: You would redact what portion?

15 MR. YALOWITZ: We redacted parts of one and two in  
16 addition to the names. I want to leave the names redacted but  
17 not the statements.

18 THE COURT: Okay.

19 MR. YALOWITZ: And then it's the same concept in three  
20 and four.

21 THE COURT: Okay.

22 MR. YALOWITZ: So for example, three we would leave  
23 the name redacted.

24 THE COURT: Okay, I want to make sure I understand.  
25 So you want references to Hamas.

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1 MR. YALOWITZ: Correct.

2 THE COURT: And you want this person would be able to  
3 bring a suicide terrorist.

4 MR. YALOWITZ: Right.

5 THE COURT: And one other thing, it may not be of any  
6 note, but the operative -- for example, the same thing that you  
7 said -- maybe you addressed this, the same thing that you said  
8 you wanted to unredact from the first portion, you didn't say  
9 you wanted that unredacted in paragraph three.

10 MR. YALOWITZ: Yeah, so three, are we on Count Ten?

11 THE COURT: Yeah.

12 MR. YALOWITZ: So three, let me read you how I want it  
13 to read.

14 THE COURT: No, I don't want to read it all in the  
15 record.

16 MR. YALOWITZ: All the names should be out.

17 THE COURT: No, you want to unredact three also in the  
18 same manner up want the unredacted original.

19 MR. YALOWITZ: Correct.

20 THE COURT: I'm not sure what -- other than this being  
21 the name of what is being claimed is a military arm of Hamas,  
22 you don't claim that this is the Al Aqsa Brigades or this is a  
23 military wing of the PA or the PLO.

24 MR. YALOWITZ: I agree with what you just said, I'm  
25 not making those claims.

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1 THE COURT: All right, because I want to make sure  
2 that I understand it and nothing surprises me later.

3 MR. YALOWITZ: I'm not making those claims. What I  
4 want to show is -- what we have is the defendant agreed to do a  
5 lot of stuff he was asked to do, but in our haste, we took out  
6 what he was asked to do and we just want to put that back.

7 THE COURT: Let them look through it, and they can  
8 tell me to what extent they have some objection, if they do, I  
9 will consider their objection. If they don't, we'll do it and  
10 we can have that done by the time the jury gets to see it.

11 MR. ROCHON: That's the extent of it?

12 THE COURT: That's what I understand the extent of it  
13 is.

14 MR. YALOWITZ: That's the concept.

15 THE COURT: Not the concept, that's got to be the full  
16 extent. Otherwise, I'm not going to revisit this. So you  
17 better show me every single part of it. Make sure they know  
18 every single page and every single word on every page that you  
19 want to unredact. If you don't point to it, I'm not going to  
20 discuss it any further. Make sure they know about it first.

21 MR. YALOWITZ: We do have more.

22 THE COURT: Then you give it to them and make sure  
23 they understand it, and you can lay it out for me that you all  
24 agree or you can lay it out to me to the extent that you  
25 disagree.

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1 MR. YALOWITZ: Perfect. What I have done is gone  
2 through the first ten counts up through paragraph four, and we  
3 have done the same thing in many other counts, and we'll make  
4 sure that the defendants understand exactly what we have done.  
5 And if there's a dispute, we'll go line by line with your  
6 Honor.

7 THE COURT: Well, I think the jury is here.

8 MR. ROCHON: I have one issue related to the jury, and  
9 Court may not be aware of this, but obviously yesterday's  
10 afternoon's testimony was emotional and moving. And when the  
11 jurors were filing out of the courtroom at the end of the day,  
12 one of the jurors herself broke into sobs and uttered an  
13 expletive, probably an expletive -- maybe she was upset about  
14 demonstrating how upset she was, I didn't take it directed at  
15 any person other party but rather at frustration.

16 The defendants are very much aware that this kind of  
17 testimony can be moving and that that's an element of the  
18 damages here. On the other hand, the testimony that was  
19 immediately before the departure of the jurors yesterday went  
20 as to some sexual assault issues that we had not, of course,  
21 had voir dire on, and it may have reflected a personal  
22 experience or not, I have no idea.

23 I am not asking the Court to individually voir dire  
24 that juror for fear that it would unduly embarrass and  
25 highlight and not be helpful. And I'm not asking the Court to

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1 inquire of the jury right now when they come in for the same  
2 reason. I do think at some point today, perhaps just before  
3 lunch or just after lunch, I would ask the Court to consider,  
4 given how emotional this testimony has been and will be, to say  
5 to the jury something like -- I haven't drafted anything --  
6 that ladies and gentlemen, some of this testimony can be very  
7 powerful, and that could be relevant to the damages portion of  
8 this case. If you find that any of it affects you personally  
9 in any way beyond the actual evidence in the case, such that  
10 you think it would cause you to have difficult being fair to  
11 either side, I would ask you to let me know, not here in open  
12 court but by the -- however you would decide to ask them to  
13 communicate that.

14 I don't want to embarrass jurors, and I am very  
15 cognizant of the fact that an element of the damages can be  
16 powerful emotional testimony, but if someone has a personal  
17 experience that is outside of evidence that would affect their  
18 ability to be fair, that's something we do need to know about.  
19 And the reaction was so strong by this one juror yesterday, and  
20 I don't want to identify the juror even by seat number or  
21 otherwise on the record out of privacy concerns, I would be  
22 happy, if the Court is not aware of the situation, I could hand  
23 it up by handing up to a note that Mr. Yalowitz could see to  
24 the clerk so your Honor could refer to the juror without unduly  
25 embarrassing the juror.

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1 THE COURT: If you want some instruction you should  
2 hand it to me in writing worded exactly the way you think it  
3 should be worded. Quite frankly, the way you just articulated  
4 it and the timing of it, I would not do that, I would not, in  
5 the middle of this testimony, simply give the jury that kind of  
6 instruction.

7 If you look at the proposed instructions I already  
8 gave you, the appropriate time to give an instruction is at the  
9 end of the case and to emphasize to the jury this case is not  
10 to be decided on sympathy nor decided on bias or prejudice.  
11 And I think that those are appropriate instructions which  
12 address these kinds of issues, and I see the same things you  
13 see.

14 But I don't think that -- I think it would be  
15 inappropriate to make the jury -- to raise this as if this  
16 should be a concern of the jury unless the jury gives -- some  
17 juror gives us some indication they have some concern. This is  
18 not the time to further voir dire the jury about how they  
19 reacted to testimony.

20 If you have a specific instruction you feel strongly  
21 about, give it to me word for word and I will consider whether  
22 or not I will give that particular instruction at the time that  
23 you say that you think it's appropriate. But my inclination  
24 right now, based on what you asked for, is not to give them any  
25 further instructions at this point in time, to allow them to

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1 fully evaluate this whole case and hear all the evidence before  
2 them and give them the proper instructions as I anticipate  
3 giving them with regard to how they should evaluate the  
4 evidence in this case and what should not play a part.

5 If you believe those instructions should be stronger  
6 or different than the instructions that I have on those issues,  
7 then we can discuss that. If I am not convinced about giving  
8 an instruction before that, we can discuss whether or not there  
9 is some manner in which to change the instructions, but I think  
10 at this point the trial is not appropriate for further inquiry  
11 of jurors, it's appropriate for instruction to jurors. The  
12 jurors heard my instructions and they know they must follow my  
13 instructions, and if they cannot, I simply would like to know.

14 MR. ROCHON: I understand the Court's position. Our  
15 position is probably more for the record than anything else,  
16 but I think the juror's extremely visible emotional reaction  
17 leaving the courtroom is an unusual enough event that doing  
18 something mid trial as opposed to end of the trial is  
19 appropriate. I understand the Court's views on that.

20 The only other thing that I ask for is indirectly  
21 related. We had some testimony about the sexual assault  
22 aspect. There's a real concern on the part of the defendants  
23 whether an independent assault by a third person is an  
24 appropriate aspect of damages because of intervening cause, not  
25 just intervening intentional acts, intervening crime as that is

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1 portrayed. All I could ask for now is I don't think there  
2 should be further testimony about a deliberate assault by  
3 another on one of the plaintiffs as an element of one of the  
4 damages.

5 THE COURT: Do we have any further such testimony,  
6 Mr. Yalowitz?

7 MR. YALOWITZ: Not as anticipated, your Honor, so I  
8 can give him the sleeves off my vest on this one.

9 THE COURT: Okay. Let's proceed and we'll see whether  
10 or not I need to do anything further. But as I say, I'm  
11 working on the jury instructions, and I will give you those,  
12 and if we need to beef those up or add additional instruction  
13 to the jury, we'll do that. But this isn't the first time that  
14 I have seen a juror cry or react strongly to the emotional  
15 testimony of a particular witness.

16 MR. YALOWITZ: Just one other thing before we bring  
17 the jury in, your Honor. Once again, we're well into the day,  
18 we don't have the defendant's witnesses for Tuesday, we don't  
19 have the defendant's exhibits for Tuesday. You know, at this  
20 point I got to believe they know what their case is, and I  
21 really don't understand why we have this kind of foot dragging  
22 day after day. If we could get some relief from the Court on  
23 that I appreciate that.

24 MR. ROCHON: This is almost comical. I never got  
25 anything from him like that during the plaintiffs' case. But



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1 let me leave aside my views of that so the Court doesn't have  
2 quibbling that I don't think the Court finds very helpful.  
3 We'll have the next round of witnesses to them sometime around  
4 noon today, along with any additional exhibits. The amount of  
5 additional exhibits are extremely modest. And that probably  
6 will take us through Wednesday, because the first list of  
7 witnesses we gave for Monday I don't think that we'll finish on  
8 Monday. So it's Thursday, they now have everyone for Monday,  
9 and they will have everyone for Tuesday and probably Wednesday  
10 by noon today.

11 THE COURT: Okay. Let's get the jury in.

12 (Continued on next page)

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(Jury present)

THE COURT: Mr. Yalowitz, would you call the plaintiffs' next witness.

MR. YALOWITZ: Yes, sir, plaintiffs call Shoshana Goldberg. My colleague, Ms. Machnes, will be conducting the direct examination.

SHOSHANA GOLDBERG,

called as a witness by the Plaintiffs,

having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. MACHNES:

Q. Good morning, Shoshana.

A. Good morning.

Q. Where were you born?

A. New York.

Q. And where do you live now?

A. Israel, Beitar.

Q. Are you a United States citizen?

A. Yes.

Q. How old are you?

A. 21.

Q. Are you currently in school?

A. Yes, I'm learning occupational therapy, third year student, it's a three and a half year program.

Q. And where are you in school? Where are you doing that

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S. Goldberg - direct

1 program?

2 A. In Bnei Brak, which is two and a half -- two to two and a  
3 half hours away from where I live.

4 Q. Do you commute every day those two to two and a half hours  
5 to and from school?

6 A. Yes, back and forth every day, five days a week.

7 Q. How old were you when your family moved from New York to  
8 Israel?

9 A. Eight months.

10 Q. And could you just briefly describe what your family life  
11 was like as you were growing up in Israel?

12 A. Everything in our family was always an experience, fun. My  
13 father would turn anything into an experience, and it could  
14 have been just going shopping for shoes for one kid and the  
15 whole family would go along. Sitting in a park, everyone  
16 together, it was just --

17 Q. Were there special customs that you and your family did  
18 growing up that your father was a part of?

19 A. A bunch of customs. Well, every Shabbos and holiday  
20 there's -- I think it's called rituals.

21 THE INTERPRETER: There would be rituals or customs.

22 A. That usually the father is the one that is in charge of  
23 running them and doing them. And there's one extremely special  
24 one that every Friday night on Shabbos we would all line up in  
25 age order, then my father would bless each and every one of us.

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S. Goldberg - direct

1 Q. There's some water in front of you and some tissues.

2 A. That custom specifically is very difficult because, since  
3 he was killed, we would always eat out with other families on  
4 Shabbos, and there are certain families that they would also do  
5 the customs, and we would have to stand on the side watching  
6 their kids getting blessings and just having to remember what  
7 we're missing out on.

8 Q. Could you tell us a little bit about what your dad was like  
9 growing up.

10 A. He was the fun type of dad. He was the type of person that  
11 not only as a dad, everyone around him just always loved him.  
12 He always cracked jokes coming in wherever we went. He was the  
13 most loving person, and he always made sure to tell us that.  
14 Any opportunity he had, he always made sure to let us know. He  
15 was the type of dad who just always made sure to be there for  
16 us for anything we needed.

17 Q. Do you have any early memories of your dad that illustrate  
18 that love and care that he showed you guys?

19 A. Yes. There was one night where we had like this path next  
20 to our house, so he came home from work and he's like Shoshana,  
21 come on, let's go out for a walk. And I'm like what is going  
22 on? Why go for a walk? What happened? And he's like I want  
23 to go out and spend some time. So we were walking up and down  
24 the path and he was telling me that he had just spoken to a  
25 friend of mine's mother and he's so impressed that I was

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S. Goldberg - direct

1 helping her daughter with something, I don't remember what it  
2 was, but he is so proud of me. And afterwards he asked me is  
3 there anything that you would want to talk about, is there  
4 anything you need, and I'm like no, I'm okay. So he's like  
5 well, okay, I just want you to know that I love you and I will  
6 always love you.

7 Q. Let me know if you need a break.

8 A. I'm okay, I think. I'm okay.

9 Q. How old were you when your father was killed?

10 A. Ten.

11 Q. And was there something special that he did for you on the  
12 day before he was killed?

13 A. Yes. My mother was a stay-at-home mom, she was home with  
14 my youngest brother, who was a year old then, a year and three  
15 months. And after we all went out to school, she went into the  
16 kitchen and she found a sandwich on the counter, so she started  
17 thinking which one of the kids could have left the sandwich at  
18 home.

19 At first she thought it was Yitzhak, my older brother.  
20 So she called my father and she asked him if he would be able  
21 to take the sandwich to Yitzhak. So my father came home from  
22 the synagogue and took the sandwich to Yitzhak's school, which  
23 was like two minutes from the house. He had to go up the steps  
24 and he was right there. So he got to Yitzhak's school to find  
25 out Yitzhak had his sandwich. So he's like okay, I guess it's

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S. Goldberg - direct

1 not Yitzhak's, so else could it be?

2 So he went to my younger brother, Yaakov Moshe, who  
3 was in preschool then, to check so see if he had his food, and  
4 he did.

5 So from there he went to Eliezer's school, who is the  
6 brother a bit younger than me, and asked him did you do have  
7 your sandwich. He did.

8 And basically afterwards he's like okay, let's try  
9 Esther. So he walked 15 to 20 minutes to Esther's school to  
10 find out that she also had a sandwich.

11 And he's like okay, then it has to be Shoshana. So he  
12 walked another like 15, 20 minutes all the way to my school.  
13 And he gets to my school, I'm in class, and he knocks on the  
14 door, they call me out, I go out, I'm like: What are you doing  
15 here? So he's like: I came to bring you your sandwich. I'm  
16 like: I ate already, I had my sandwich. He's like: You had  
17 your sandwich? Okay, doesn't matter, I came all the way here,  
18 but it's fine, I just want you to know that I love you. It was  
19 worth coming all the way here so I could let you know.

20 And that was the day before he was killed. It's the  
21 last time he ever said that to me.

22 Q. Is that the kind of thing that your father did all the time  
23 for you guys?

24 A. Yes, to every one, each and every one of us.

25 Q. I want to turn now to January 29, the day that your father

F25TSOK1

S. Goldberg - direct

1 was murdered. How did you find out that he had been killed?

2 A. I came home from school that day and got home at 2 o'clock  
3 and on our porch there were a bunch of people, like friends of  
4 the family. And something was weird, like what are they all  
5 doing there. And we tried asking, they're like no, we just  
6 decided to come visit. And what is going on, everyone was  
7 talking on the phone, talking between each other, and I had no  
8 clue what was going on.

9 At some point later on someone mentioned that they  
10 can't get through to my father, they have been trying him since  
11 the morning and they don't know what is going on, maybe he was  
12 injured. They heard there was a terrorist attack, they were  
13 thinking he was probably injured, but probably not, he probably  
14 went to the hospital, like he usually does, to make everyone  
15 happy and make sure they're okay and see what he can do to  
16 help.

17 And later on my mother went to a place called Abu  
18 Kabir, which afterwards I found out it was to identify bodies.  
19 She came home at 8 o'clock at night. We were all -- I remember  
20 her sitting down on the couch, we're all around her, and she  
21 just said two words, I'll say it first in Hebrew and then  
22 translate it, abba shamayim, abba is dad and abba's in heaven,  
23 dad's in heaven.

24 And I remember we burst out crying. We did not know  
25 what hit us. It felt so unreal. How could that be? He was

F25TSOK1

S. Goldberg - direct

1 just here, and like it doesn't make sense. It felt like it  
2 was -- for a while after I thought it was a dream, that it  
3 couldn't be true, not even a dream, a nightmare.

4 Q. Could you tell us about the funeral, Shoshana?

5 A. It was at a synagogue like three, four minutes away from  
6 our house. There was a car there, a van with his body in it.  
7 Everyone was there, there were people there talking about him  
8 and all the things he's done until then.

9 And I remember just standing there crying hysterically  
10 not knowing what to do with myself. I felt like I was falling  
11 apart. I had a good friend standing next to me hugging me,  
12 someone was with me. I felt so alone. And at the end of the  
13 funeral they had us -- or not at the end, I don't know what  
14 point exactly, they had us go over to the car where he was  
15 laying, I remember seeing him wrapped in a tallis, like a  
16 prayer shawl, and they basically told us -- I don't remember  
17 exactly how long it was, but you have got to apologize, if you  
18 have done anything, quickly before we drive away.

19 Q. Why were they asking you to apologize?

20 A. It's a custom that like when someone passes away, when  
21 someone dies, just to make sure that like if you have done  
22 anything to them or they have done anything to you that  
23 everything is okay.

24 Q. What were you thinking when you were asked to make those  
25 apologies?



F25TSOK1

S. Goldberg - direct

1 A. Well, first I started feeling guilty, like maybe I did  
2 something wrong that he had to be murdered and maybe it's my  
3 fault. I couldn't think what, but it felt so unusual. It's  
4 one thing to ask apology from someone who is alive, but to ask  
5 apology from my father while he was lying there --

6 Q. Did you sleep that night?

7 A. We were all up until like five in the morning. We could  
8 not sleep. We had to get up at seven, though, because people  
9 started coming. So we did not sleep, those two hours we  
10 basically slept on the floor, we conked out.

11 Q. How did you cope with your dad's murder in the days and  
12 weeks that followed that day?

13 A. We didn't cope. We didn't go to school. Most of us didn't  
14 go to school. There was just too much going on. When we were  
15 in school, which was very rare, maybe once a month, that was  
16 like on the good days, but when we were in school we couldn't  
17 concentrate. There was too much emotion. We didn't know what  
18 to do with ourselves. We were thrown into a totally different  
19 life than from the calm home we used to have. It just turned  
20 upside down.

21 I remember there was one time where we started eating  
22 the Shabbos meals out by other people, and there was one time  
23 where I don't remember what happened, but I do know that  
24 nothing too much had to happen for it to feel like life is  
25 falling apart, because someone could have made a small comment

F25TSOK1

S. Goldberg - direct

1 or whatever it was.

2 And I remember there was one time eating by a family  
3 and I at some point started running away. I couldn't handle it  
4 anymore. I tried running away to -- I don't know to where, I  
5 don't know why that would help, but I was running for like 15  
6 minutes. Two of the girls of the family were running after me  
7 trying to stop me, and after 15 minutes I guess my energy  
8 finished, and I just sat down on the edge of like the sidewalk  
9 and I just burst out crying. It was too much, too much to  
10 handle.

11 (Continued on next page)

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25

F258SOK2

S. Goldberg - direct

1 BY MR. MACHNES:

2 Q. Did the girls who were running after you reach you at some  
3 point?

4 A. When I stopped. I was running really fast, not knowing  
5 where I'm going, trying to get as far from life as possible.  
6 It didn't work.

7 Q. Shoshana, did you have problems in school or running away  
8 or anything like that before your father was murdered in the  
9 terrorist attack?

10 A. Not at all. I was a good student, always got good marks.  
11 Not at all.

12 Q. How long did it take you to internalize that your father  
13 had been killed?

14 A. I don't think it's something that's internalized. As much  
15 as we somehow learned, we had no choice but try to continue  
16 living. But internalizing, there is still always that hope  
17 that, come on, he'll turn up some day. It can't be. 11 years  
18 have gone by. It still seems unreal.

19 Q. Could you just summarize or compare how life has changed  
20 before and after your father was murdered?

21 A. Everything changed. Nothing stayed the same. If it's from  
22 the calm family to all the outbursts and tantrums that we had  
23 afterwards, that my poor mother had to deal with, if it's from  
24 my mother being home, mom at home cooking suppers, doing  
25 everything, to my mother had to handle everything my father

F258SOK2

S. Goldberg - direct

1 used to do. Everything changed. Nothing stayed the same.

2 Q. Why is it that you commute to and from school two and a  
3 half hours every day of the week?

4 A. I'm afraid to leave my family. That one day when I went to  
5 school I came home and my father was no longer. I can't think  
6 of leaving them for more than a day. If God forbid something  
7 happens, at least I should be around. I can't be far.

8 Q. Did your father write you letters when he was alive?

9 A. Yes. On the three months before he was murdered, on his  
10 birthday he wrote each and every one of us a letter. The  
11 letter he wrote me, I always take around with me. It's always  
12 in my purse, and I always look at it. Whenever I miss him, I  
13 feel like I need some comfort. Something that he wrote in  
14 there was -- I'm the middle child. There's three above me, my  
15 two sisters and brother and three younger brothers.

16 So he writes there that he knows that as a middle  
17 child I might feel like I sometimes get lost in all the action  
18 that is going on in the family, but he writes that I just want  
19 you to know that even though it might seem that way, that  
20 you're getting lost, you're very important to me and whenever  
21 you need to talk about something, you should always feel free  
22 to come talk to me about it. And if it's not a good timing in  
23 the first opportunity, I will make an effort to talk to you.  
24 And then that never came true.

25 After he was killed I read that letter sometimes and I

F258SOK2

S. Goldberg - direct

1 say, really, did you really mean what you said? When I need  
2 him most, he's not there.

3 Q. Shoshana, do you think it made things harder that your  
4 father was killed in a terrorist attack as opposed to something  
5 like a car accident?

6 A. Yes. 'Cause a terrorist attack, it comes with shock and  
7 it's just evil. I'm always afraid, and because my father was  
8 killed in such a sudden way and just 'cause someone decided to  
9 blow himself up on a bus, for years we didn't take any buses.  
10 I would sometimes walk for two and a half hours just so I don't  
11 have to get on a bus 'cause I can't know if someone will decide  
12 to blow themselves up on that bus.

13 Not that walking was too much better, because when I  
14 would walk I would always be looking all around me to make sure  
15 no one suddenly jumps on me, because you can't know what  
16 someone -- you feel unsafe in your own territory because you  
17 can't know what someone else would suddenly think of doing.  
18 Especially my father was killed on the way to work. So it was  
19 something so -- even though it wasn't the route he usually  
20 took, but it's just like on a regular day, nothing different  
21 happened, I'm always on the way to places and I'm always  
22 nervous, what if something happens.

23 I just lost any feeling of stability that we had  
24 before. It's like anywhere you go, you can never know what is  
25 going to be next.

F258SOK2

S. Goldberg - direct

1 Q. How would you react if you even saw a photograph of the  
2 bus?

3 A. Well, the reason I know the answer to that is because I was  
4 sitting in psychiatry class last year and we were learning  
5 about PTSD, posttraumatic stress disorder, and not  
6 intentionally the teacher was giving a different example of  
7 some story -- I don't remember the example she gave -- but she  
8 had a picture of a bus on, and my heartbeat went up. I was  
9 sitting there, I felt like I could not move. I felt my heart  
10 beating so fast and I started sweating. I didn't know what to  
11 do with myself.

12 As I am sitting there, I noticed that not only is it a  
13 picture of the bus, it's a picture of a 19 bus, and I did not  
14 know what to do with myself. I felt like I couldn't sit in  
15 class on the one hand but on another hand I couldn't move, I  
16 couldn't get up.

17 Q. Do you have trouble with loud noises?

18 A. Yes. We were in a pottery class and the teacher asked the  
19 girls to be able to let out energy, to basically pick up the --

20 THE INTERPRETER: The clay.

21 A. -- to pick up the clay and pick it up high and throw it  
22 down at the table as many times as possible. I was sitting in  
23 class -- standing -- and the noises were so loud it reminded me  
24 of a terrorist attack. Again, I was feeling my heartbeat go  
25 up. It frightened me. It just reminded me of my father.

F258SOK2

S. Goldberg - direct

1 Q. Shoshana, did you bring with you a photograph of you and  
2 your dad?

3 A. Yes.

4 Q. Do you have it in front of you?

5 A. Yes.

6 Q. What does the little sticker say on the photograph?

7 A. Plaintiffs' Exhibit 1260.

8 Q. When was that photograph taken?

9 A. It was taken when I was in preschool. I used to learn --

10 THE INTERPRETER: In a special ed class.

11 THE WITNESS: No.

12 A. It's a mainstream class for special needs and regular  
13 children.

14 In Gan Harmony, where my father worked, that's where  
15 it was taken.

16 Q. Who was in it?

17 A. Me and my father. There was a little boy on the side and  
18 I'm not sure who that is. It may be my older brother Yitzhak,  
19 who also went there.

20 MR. MACHNES: Plaintiffs offer Exhibit 1260.

21 MR. ROCHON: No objection.

22 THE COURT: It will be admitted into evidence.

23 (Plaintiffs' Exhibit 1260 received in evidence)

24 Q. Is this the photograph that you were referring to?

25 A. Yes. It's a photograph that whenever I miss him, whenever

F258SOK2

S. Goldberg - direct

1 I feel like I need to see him, just remember who he was, I have  
2 three or four copies hanging in my room in different sizes. I  
3 have it as my computer screen background and my tablet screen  
4 background. In my wallet. I keep it everywhere. Wherever I  
5 am, I am always looking at it. Whenever I feel lonely,  
6 whenever I feel life is too hard and I miss him and I wish he  
7 was there, I look at that photo. I would say it might make me  
8 miss him more, but the way he is hugging me there is so  
9 supportive, I'm with you. I'm so alone now.

10 Q. Have you dreamt about your father since he was murdered?

11 A. Yes.

12 Q. Is there one dream that stands out to you?

13 A. During the shiva --

14 THE INTERPRETER: During the mourning period.

15 A. -- I dreamt. In my dream I saw, it was basically a wagon,  
16 two wagons, one gold and one black. The gold was full of gold  
17 pieces in it, like overflowing with gold, and the black had  
18 just like a few, a little bit in it. And in my dream I see it  
19 basically racing really, really fast through this breathtaking  
20 area full of greenery and flowers, for a few good minutes just  
21 zooming through it and going and going and going. I remember  
22 watching it and thinking, what is it? Going and going and  
23 going. And suddenly it stops before these huge golden gates.  
24 Then I hear this voice come out and say, are these all the good  
25 deeds Yechezkel Goldberg did? And a different voice is like,



F258SOK2

S. Goldberg - direct

1 no, there's a few more. So they bring those few more. And  
2 then the first voice asks again, Are those all the bad deeds  
3 that Yechezkel Goldberg did? And the answer is yes. That's  
4 it? Yes.

5 Then I hear them saying, OK, open the gates, let him  
6 into heaven. And those huge golden gates open up and I  
7 suddenly see my father sitting right across from those gates on  
8 this gold chair that's a few steps up and sitting there, and he  
9 says to me, Shoshana, I just wanted you guys to know that I'm  
10 OK. And that was it. He's OK, but we are not.

11 MR. MACHNES: Your Honor, I have nothing further.

12 THE COURT: Mr. Rochon.

13 MR. ROCHON: No questions. Thank you.

14 THE COURT: Thank you. You can step down.

15 (Witness excused)

16 MR. YALOWITZ: Our next witness will be Yitzhak  
17 Goldberg. My colleague, Ms. Weiser, will be conducting the  
18 direct examination.

19 YITZHAK GOLDBERG,

20 called as a witness by the plaintiffs

21 having so affirmed to tell the truth,

22 testified as follows:

23 DIRECT EXAMINATION

24 BY MS. WEISER:

25 Q. Good morning, Yitzhak.

F258SOK2

Y. Goldberg - direct

1 A. Good morning.

2 THE COURT: You have to keep your voice up. Sit  
3 closer to the microphone.

4 Q. Yitzhak, where were you born?

5 A. Brooklyn, New York.

6 Q. Are you a citizen of the United States of America?

7 A. Yes, I am.

8 Q. Where did you grow up?

9 A. I was born in New York, lived here for two years and then  
10 we moved to Israel, and I grew up in Beitar.

11 Q. You speak English well. What language do you speak in your  
12 home?

13 A. English and Hebrew.

14 Q. If you're lost for a word, we have Rena here to help you.  
15 But you're OK communicating with me in English?

16 A. Yeah.

17 Q. What are you doing right now? Are you in school?

18 A. Yeah.

19 Q. Where are you in school?

20 A. I am studying social worker in Hebrew University.

21 Q. Why did you choose to go to social work school?

22 A. I like helping people and I get that from my father. He  
23 worked with teenagers. He worked in that field. So I felt  
24 connected going after that.

25 Q. Did you graduate from high school?

F258SOK2

Y. Goldberg - direct

1 A. No. I did not. I didn't graduate from high school, but I  
2 did a GED at some point.

3 Q. We will come to your education a little bit later.

4 Let's talk now about the day that your father was  
5 murdered. Where were you?

6 A. I was in school.

7 Q. What happened? Did you find out in school?

8 A. No. I realized I got some overattention from the teachers  
9 but they didn't say anything. They didn't mention that  
10 anything happened. They just kept me close to them.

11 Q. What happened when you got home?

12 A. There was a lot going on. There was a lot of people in the  
13 house. My mother wasn't home. There were a lot of neighbors  
14 that were there, like to play or give us food or whatever. I  
15 still had no idea. There was definitely something going on,  
16 but I had no idea what it was.

17 Q. How old were you?

18 A. 12.

19 Q. Do you remember finding out that your father had been  
20 murdered?

21 A. Yes.

22 Q. How did you find out?

23 A. At a certain point my mother came back from identifying the  
24 body and she was with people from the government or policemen  
25 or whatever, and she said that my father went up to the sky.

F258SOK2

Y. Goldberg - direct

1 That's the way she said it.

2 Q. What was your reaction?

3 A. I think I froze. I remember going out at some point but I  
4 don't really remember.

5 Q. Do you remember the memorial or the funeral?

6 A. Yes.

7 Q. What do you remember about that? Where was it, first of  
8 all?

9 A. It was outside the synagogue where we pray. There was a  
10 ZAKA car.

11 Q. What is ZAKA? In your own words explain to the jury.

12 A. It's an organization that collects body parts from  
13 terrorist sites or terrorist attacks, stuff like that.

14 Q. It said ZAKA on the van?

15 A. Yes.

16 Q. Did you understand at 12 years old what that was?

17 A. Yes, of course.

18 Q. How did that make you feel?

19 A. It made me understand what is going on a little more.

20 Usually just a random dead person is not in that car. Usually  
21 he is not full or parts are not all together.

22 Q. Do you remember seeing your father's body?

23 A. Yes.

24 Q. What did it look like to you?

25 A. It looked like a body. I remember trying to figure out

F258SOK2

Y. Goldberg - direct

1 which side is the head and what side are the legs. I don't  
2 really remember. I didn't get to any conclusion. I couldn't  
3 figure out.

4 Q. Do you remember anything else about the memorial?

5 A. We had to tear our shirts and say Kaddish, which is a  
6 Jewish prayer that you say over a dead sibling.

7 Q. Only a sibling?

8 A. Like father or -- usually fathers say it on sons or sons  
9 say it on their older fathers.

10 Q. Let me back up. You said that you had to tear your shirt.  
11 Why did you tear your shirt?

12 A. It's a mourning sign or symbol in Judaism.

13 Q. Did you continue to say Kaddish, the memorial prayer for  
14 your father?

15 A. Yeah. You're supposed to say it for a year straight three  
16 times a day in synagogue.

17 Q. Do you say it to yourself or say it out loud?

18 A. No. You stand up in front of the synagogue and you say it  
19 yourself out loud.

20 Q. How did it make you feel to do that?

21 A. It wasn't fun. It's not a place that usually someone my  
22 age is supposed -- it's not situation that someone my age was  
23 supposed to be. So it wasn't so pleasant.

24 Q. Yitzhak, how about during the months and years after your  
25 father was murdered, and let's start by talking about your

F258SOK2

Y. Goldberg - direct

1 schooling. What kind of student were you before your father  
2 was murdered?

3 A. Before I was a pretty good student. After the terrorist  
4 attack I kind of didn't go back to school.

5 Q. Just to go back for one second, Yitzhak, when you were in  
6 synagogue saying the mourning prayer for your father, were  
7 there other people your age saying that with you?

8 A. My younger brothers -- it's something that only the boys or  
9 the guys say. So I was the oldest boy so I had to take them to  
10 the synagogue and say it with them together. If they didn't  
11 want to come, then I had to say it myself.

12 Q. Who was standing with you saying those prayers alongside  
13 you?

14 A. Sometimes by myself or sometimes older people that are  
15 usually saying it on their older parents.

16 Q. How did it make you feel being the only child saying  
17 Kaddish in synagogue?

18 A. It just kept bringing me back to whatever happened.

19 Q. Yitzhak, why did you stop going to school after your father  
20 died?

21 A. I don't know.

22 Q. What was your house like after your father was murdered?

23 A. Pretty much a disaster.

24 Q. What do you mean?

25 A. There was a lot of fighting. Nothing was organized.

F258SOK2

Y. Goldberg - direct

1 Everything was a mess.

2 Q. What was your mother like?

3 A. Struggling.

4 Q. Can you explain that to us a little bit?

5 A. It was a shock for her. Before the terrorist attack my  
6 father did most of the -- he had a very strong personality. So  
7 he had a very strong say in everything. It was probably a  
8 shock to my mother to suddenly have all of that responsibility  
9 on her, taking care of all of the bills, taking care of all the  
10 children, being the bad guy and good guy at the same time,  
11 which doesn't really work.

12 Q. After your father was murdered, was there a lot of laughter  
13 in your house?

14 A. Laughter, you mean joy?

15 Q. Yes.

16 A. Not too much.

17 Q. How about before?

18 A. I don't remember too much from before. It definitely  
19 wasn't how it was after. I don't remember having a hard life  
20 before the terrorist attack.

21 Q. Yitzhak, after your father was murdered, did you have any  
22 physical issues?

23 A. I gained a lot of weight, which I am still working on  
24 getting off. I used to suffer from -- I still. I suffer from  
25 migraines, and after they became much stronger and much more

F258SOK2

Y. Goldberg - direct

1 often.

2 Q. Yitzhak, how long after your father was murdered was your  
3 Bar Mitzvah?

4 A. It was within the year. I'm not sure exactly.

5 Q. Do you remember your Bar Mitzvah?

6 A. I remember the day of the Bar Mitzvah. I don't remember  
7 the whole Bar Mitzvah itself.

8 Q. What do you remember?

9 A. I remember running away from it.

10 Q. Why did you run away?

11 A. I guess I wasn't comfortable. It's usually something where  
12 you're there with your father. It's like a man party kind of  
13 thing, and he wasn't there. There were a lot of other men, but  
14 nothing that I had to do with or anything like that. So I just  
15 disappeared.

16 Q. How were you emotionally after your father was murdered?

17 A. I was very angry, stressed. I'm not sure exactly.

18 Q. Did you ever think about killing yourself?

19 A. Yes.

20 Q. Can you tell us about that?

21 A. I just didn't have too much going for me in that time.  
22 Like I lost a very strong thing in my family and then I kind of  
23 lost my mother as well because she had a lot of stuff to deal  
24 with and, like I said, it was hard to be the good guy and bad  
25 guy. So she tried, but I also kind of blocked her out. So my



F258SOK2

Y. Goldberg - direct

1 family was out of the picture. Like I said, I didn't go to  
2 school. I didn't have too much support from anyone. It looked  
3 like a legitimate option.

4 Q. Did you become aggressive?

5 A. Yes.

6 Q. Can you give us some examples?

7 A. I remember breaking a glass door once.

8 Q. Where was that?

9 A. In my house.

10 Q. Do you remember what was happening at the time?

11 A. I don't think I meant to break the door. I think I was  
12 just angry or fighting with someone and I kicked the door and  
13 the glass broke.

14 Q. Yitzhak, did you ever go to therapy?

15 A. Yes.

16 Q. Did you go as a child?

17 A. As a child I tried it. Like my mother wanted to me to go  
18 and I didn't really go.

19 Q. How old are you now?

20 A. 23.

21 Q. Are you in therapy now?

22 A. Yeah.

23 Q. What kind of things are you working on in therapy?

24 A. Building myself up, building -- learning how to deal with  
25 the situation in my family or the tension or whatever is

F258SOK2

Y. Goldberg - direct

1 happening there. Relationships.

2 Q. What do you mean building yourself up?

3 A. Taking myself from a place where I wanted to kill myself to  
4 life that's more meaningful or that I can do something more.  
5 Not want to kill myself.

6 Q. When you say that you're working on dealing with the  
7 situation with your family, what do you mean by that? What is  
8 happening with your family?

9 A. I'm sure, as everyone heard, everyone is going through  
10 their own stories and my mother has to deal with everyone,  
11 which is not easy in the first place, and everyone has to deal  
12 with themselves. So I am some type of father figure in the  
13 family so I try to help.

14 Q. Let's talk about that father figure issue. What was it  
15 like losing your father as the oldest boy in the family?

16 A. It put on me a lot of responsibility that I wasn't supposed  
17 to have.

18 Q. Like what?

19 A. Taking my brothers to the synagogue or anything that  
20 usually a father does with his son. So I was expected to do or  
21 to help with. They looked at me, just because I was the oldest  
22 son, so they looked at me as a role model. I wasn't left with  
23 much of a choice.

24 Q. How did that make you feel?

25 A. It's just not easy growing up with such a big

F258SOK2

Y. Goldberg - direct

1 responsibility. There is a reason why 12 year olds don't get  
2 married and have four kids to take care of.

3 Q. You felt like you were responsible to take care of those  
4 four kids?

5 A. Yes.

6 Q. Yitzhak, you mentioned you are also working with your  
7 therapist on relationships. What do you mean by that?

8 A. I don't remember much of my parents' relationship from  
9 before the terrorist attack, and I kind of need -- I need to  
10 build up my own image or my own way. I don't really have  
11 someone to talk to about it or to look up to to see what type  
12 of relationship I want. So a lot of times you can make  
13 mistakes. It's just finding your way.

14 Q. If your father was alive, would you be asking him questions  
15 about relationships?

16 A. Yeah.

17 Q. What kinds of other things do you think you would be doing  
18 with your father if he was alive today?

19 A. I probably would have continued what we used to do. We  
20 used to go to the synagogue every day in the morning and then  
21 have fun bonding time together before he went to work. It was  
22 always nice talking to someone. He was a smart person, so it  
23 was fun consulting with him. I assume that he would have  
24 continued giving me more inspiration or good advice in school  
25 and with relationships or in general or in life.

F258SOK2

Y. Goldberg - direct

1 Q. Do you go to synagogue anymore?

2 A. No.

3 Q. Yitzhak, in Israel, do all boys and girls do some sort of  
4 service for the country?

5 A. Yeah. They serve in the army, in the military.

6 Q. Did you?

7 A. No.

8 Q. Why not?

9 A. I was supposed to and then the reactions from my family  
10 weren't the best. They had a hard time handling the fact that  
11 I might be a target or have more chance of losing my life.

12 Q. So what happened?

13 A. The army let me out.

14 Q. How has not serving in the army affected you?

15 A. It's weird to live in Israel and not to serve in the army.  
16 It's something that every 18 year old does. It's for three  
17 years. So it's a pretty big chunk of your life. It's an  
18 important time. It always comes up in conversations. Anywhere  
19 you go they ask where did you serve in the army. It's not even  
20 the option did you or did you not. It's where did you serve in  
21 the army. And according to that they could take you to a job,  
22 not take you to a job. So it makes me feel a little outside  
23 and different. It's not something that everyone goes through.

24 Q. What do you say when people ask you?

25 A. I didn't go to the army because of personal reasons.

F258SOK2

Y. Goldberg - direct

1 Q. Do you think your mother should have moved away from Israel  
2 after your father was murdered?

3 A. No.

4 Q. Why not?

5 A. Why should she move? If we have a certain base or  
6 something sturdy, especially after something like that happens,  
7 I don't think it's a smart idea to go and pick up to a totally  
8 new place. I'm happy she stayed.

9 Q. Do you ever look -- let's look backwards. Did you ever  
10 look in the past for pictures of the suicide bombing in which  
11 your father was murdered?

12 A. Yes.

13 Q. Do you remember the first time you did that?

14 A. I remember the first time. I don't remember how old I was.

15 Q. How did you look? Let's start with that. Where did you  
16 look?

17 A. On Google.

18 Q. What did you find?

19 A. It wasn't that easy. First I found a video that was taken  
20 a few seconds after the bombing itself.

21 Q. What was in the video?

22 A. A blown-up bus and a lot of body parts.

23 Q. How did it make you feel to see that video?

24 A. It made me -- when I was looking at the video, it made me  
25 want to see more, like I was feeling like I want to see more.

F258SOK2

Y. Goldberg - direct

1 Q. Did you look for more pictures?

2 A. Yes.

3 Q. What did you find?

4 A. More pictures of the bombing attack. There were a few  
5 pictures that I was debating if that's my father or not.

6 Q. How often do you look at those pictures?

7 A. The last time was like a week and a half ago. I think  
8 usually I do it around memorial day.

9 Q. On the memorial of his death?

10 A. The memorial of his death.

11 Q. Yitzhak, what are you looking for in those pictures?

12 A. I'm looking to find some information or more information  
13 than whatever I know, but I think also, at the same time, I'm  
14 not so sure I want to get that information.

15 Q. Are you looking for your father?

16 A. Yes.

17 Q. What kinds of things did you like to do before your father  
18 was murdered? Did you like to read?

19 A. Yes.

20 Q. Tell us about that.

21 A. I used to finish a book in a few hours.

22 Q. Who bought you your books?

23 A. My father. Every day he used to come home with a different  
24 book because I used to finish it. He used to say he wasted all  
25 of his money on my books.

F258SOK2

Y. Goldberg - direct

1 Q. Did he seem angry about that?

2 A. No.

3 Q. Did you continue reading after your father was murdered?

4 A. No.

5 Q. What about singing, did you used to sing?

6 A. I used to be the lead singer in the school choir.

7 Q. Were you recorded?

8 A. Yeah, several times.

9 Q. Did you have solos?

10 A. Yeah.

11 Q. Did you used to sing with your father?

12 A. Yeah. Of course. I think I got the singing part from him.

13 He used to love to sing. So I think that's where it came from.

14 Q. Did you continue singing after your father was murdered?

15 A. No.

16 MS. WEISER: I have nothing further.

17 MR. ROCHON: No questions.

18 THE COURT: Thank you, sir. You can step down.

19 (Witness excused)

20 THE COURT: We will take a ten-minute break, ladies  
21 and gentlemen. Don't discuss the case. Keep an open mind. I  
22 will see you in ten minutes.

23 (Jury exits courtroom)

24 THE COURT: We will take ten minutes.

25 (Recess)

F25TSOK3

1 (Jury not present)

2 MR. YALOWITZ: Your Honor, before we call the jury, I  
3 wanted to inform of you an agreement that I made with  
4 Mr. Rochon. It was such an extraordinary event we thought the  
5 Court should be informed.

6 THE COURT: I'm happy already.

7 MR. YALOWITZ: Based on the testimony of the initial  
8 Goldberg plaintiffs, I asked Mr. Rochon if he's planning to  
9 call Minrath and Thompson, which are his psychological experts.  
10 I explained that if he was planning to call them, there were  
11 some questions that we needed to ask Esther Goldberg, who is  
12 the final Goldberg plaintiff, about the psychological  
13 examinations that Minrath and Thompson conducted during  
14 discovery of the case.

15 Mr. Rochon committed to me that he is not going to  
16 call Minrath and Thompson. In exchange, I committed to him  
17 that we're not going to ask questions about those examinations  
18 of this witness or any other Goldberg family member. So we  
19 have that agreement, and Mr. Rochon can correct or confirm.

20 MR. ROCHON: That's right.

21 THE COURT: All right. Great. We're ready to  
22 proceed?

23 MR. YALOWITZ: Yes.

24 THE COURT: Then let's bring in the jury.

25 (Continued on next page)



F25TSOK3

(Jury present)

THE COURT: Mr. Yalowitz.

MR. YALOWITZ: Your Honor, our next witness is Esther Goldberg. Ms. Weiser will be conducting the examination.

ESTHER KITAY,

called as a witness by the Plaintiffs,

having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. WEISER:

Q. Esther, your last name is Goldberg, but you're married, right?

A. Yes.

Q. What is your married name?

A. Kitay, K-I-T-A-Y.

Q. Are you a citizen of the United States of America?

A. Yes.

Q. Where were you born?

A. In New York.

Q. How long did you live in New York?

A. For four and a half years.

Q. Where did you move after that?

A. To Israel.

Q. What is your relationship to Scott Goldberg?

A. He was my father.

Q. How old were you when he was murdered?

F25TSOK3

Kitay - direct

1 A. Fourteen and a half.

2 Q. Do you have memories of your childhood from before your  
3 father was killed?

4 A. Yeah.

5 Q. What was your father like?

6 A. He was a person full of life, always had a smile on his  
7 face. He was always there for us. We all -- we were all able  
8 to lean on him as a dad.

9 Q. Did he ever make dinner for your family?

10 A. Yes. The truth is my mother was more in charge of the  
11 dinners and food and clean up, and she was always the mother at  
12 home. But there were a few rare times that he did it, and he  
13 would make us French toast, omelettes for supper. And we were  
14 all excited, and each one got to choose what they wanted, and  
15 he made a whole big deal, and we waited -- in a way we were  
16 excited for that supper even though it was just omelettes and  
17 French toast. He did it with a whole heart and with such  
18 happiness and fun that we actually enjoyed it, and it's a sweet  
19 memory I have.

20 Q. What did the kitchen look like when he was done?

21 A. A disaster. My mother -- it was left up to her to do the  
22 clean up, but she knew that the kids were set and they weren't  
23 hungry, and he took care of that. So when it was necessary, it  
24 was worth it for her and she was happy to clean up his mess  
25 knowing that he only meant well. That's how he would do it.

F25TSOK3

Kitay - direct

1 He would make supper and leave a mess behind him, all the  
2 footsteps, you knew what he used and how he made it.

3 Q. Did you have a little bit of a temper as a child?

4 A. Yes, I would get angry, and my father did --

5 THE INTERPRETER: A campaign, an operation.

6 A. That every time I feel like I'm angry and I control myself,  
7 I put a marble in a box, and when the box is full, I get a  
8 prize. And I remember really having to control myself and  
9 putting every time a marble in the box. And it took time for  
10 it to fill up, but when it was full, we were all on a family  
11 outing, we would always do different family outings, and it was  
12 everyone together. And so on one of them we went to some mall  
13 together, and he took me to the side and told me to choose some  
14 jewelry box from this fancy stand, and I remember everyone  
15 looking at me. And my sister like was jealous, I didn't have a  
16 tamper, why can't I get that prize. But I felt really special,  
17 and I have it until today.

18 Q. Where is it today?

19 A. On my shelf.

20 Q. Did it work?

21 A. Yeah, it actually had a music piece a little doll dancing  
22 and a little drawer where you could put the jewelry, and I  
23 still use it.

24 Q. Do you remember how he interacted with your little  
25 brothers?

F25TSOK3

Kitay - direct

1 A. He would put them to sleep at night, and actually the night  
2 before the attack he took them out on a bourekas trip. He took  
3 them out and gave them all a bag of different bourekas they got  
4 to the choose on their own. And that's one of the memories  
5 that my little four year old -- he was then four years old, one  
6 of my brothers, that he remembers as a last memory.

7 Q. What's a bourekas?

8 A. It's like these danishes.

9 Q. Did he play with them on the floor? Was he fun with them?

10 A. He had a game called -- he would call it The Boys, with his  
11 hand lifted up, The Boys, every time he would get wild with  
12 them. And they would jump over him and have really a lot of  
13 fun. And actually my sister Shoshana, who was in between them,  
14 always joined. He didn't want her to feel left out, so she was  
15 part of The Boys.

16 Q. What kind of special interactions did your father have with  
17 your brother Yitzhak?

18 A. My brother Yitzhak was a bookworm, the oldest, he was a  
19 bookworm. And so he loved reading. So my father would always  
20 buy him big fat books and he would finish them in a really  
21 short time, but he would -- like he would like to buy him books  
22 that he liked or new books that came out he would buy them for  
23 him, and that was a treat.

24 Q. Are there other examples of your father sort of seeing  
25 special qualities in you guys and doing special things for you?

F25TSOK3

Kitay - direct

1 A. Can you ask again?

2 Q. Did you feel that he gave you each individualized  
3 attention?

4 A. Yes, definitely. Each one felt like they're the closest to  
5 him, and we were actually -- there was once an argument who was  
6 the closest. So that's when we found out that each one really  
7 felt really close to him and each was sure they were closer  
8 than the others.

9 Q. Let's talk about the day of the terrorist attack, what do  
10 you remember about that day?

11 A. I remember coming home not knowing what was going on and  
12 there were a lot of people in the house. I felt a wreck. No  
13 one told me anything. They were actually making sure we didn't  
14 answer the phone calls because people kept apparently calling  
15 and saying what's going on. I personally took upon myself to  
16 honor him better as a dad and give charity if we find out  
17 everything is okay. I did not think that would be the end.

18 Q. So I want to understand, you were worried about your father  
19 at that point?

20 A. Actually I did not think that he would be murdered. At  
21 first I thought he's helping people. At some point I thought  
22 he got hurt.

23 Q. And so you made promises to yourself?

24 A. Yeah, I promised I'm going to honor him and respect him  
25 more and give charity when I find out that everything is okay,

F25TSOK3

Kitay - direct

1 like I assumed.

2 Q. How did you find out everything wasn't okay?

3 A. My mother came in in the evening, it was at the end of the  
4 day, there were a lot of people in the house still, and she  
5 told us that he went up to heaven.

6 Q. What was your reaction?

7 A. I burst out crying. I covered my face because I didn't  
8 want anyone to see.

9 Q. Do you remember the memorial?

10 A. Yeah.

11 Q. What do you remember?

12 A. We didn't have too much time to say goodbye, and there were  
13 different rabbis and people speaking. I fainted, so I don't  
14 know what really else went on.

15 Q. Did you have a traditional week of mourning after that?

16 A. Yes.

17 Q. And what happened during that week? What was it like in  
18 your house?

19 A. People were coming in and out, in and out. We weren't  
20 going to sleep. We stayed up until we collapsed. People  
21 constantly were coming in the house all the time. It was a  
22 mess. We didn't get a second to think.

23 Q. Did you all have pretty normal sleeping patterns before  
24 your father was murdered?

25 A. Yeah.

F25TSOK3

Kitay - direct

1 Q. What happened after?

2 A. No one was willing to go to sleep. We all stayed up. We  
3 had blasting music on to keep everyone a bit distracted as much  
4 as you can. Everyone would just collapse at some point, fall  
5 asleep and conk out on the floor or the couch or the living  
6 room. It could have been five in the morning, three in the  
7 morning, easy.

8 Q. How long did that go on?

9 A. For a while, a while.

10 Q. Do you know why?

11 A. Well, we lost our stability. We lost someone that really  
12 kept our life very stable, so everything was a wreck.

13 Q. What kind of student were you before your father was  
14 murdered?

15 A. I was a good student. I did well on tests, did all the  
16 homework.

17 Q. Was your father involved in your schooling?

18 A. Yeah, very much. He would actually come to the parenting  
19 meetings when in our community it's usually just mothers for  
20 girls and fathers for boys. He would show up with my mother.  
21 It was important for him. It's my daughter, I want to hear how  
22 she's doing. I want to be involved.

23 Q. What happened after in terms of your education?

24 A. I didn't show up in school. I lost interest. I lost  
25 concentration. I have a very hard time sitting and

F25TSOK3

Kitay - direct

1 concentrating. I lost something so important in my life that  
2 nothing else was important anymore.

3 Q. Did your mother try to get you to go to school?

4 A. Of course she tried, but there wasn't exactly much to talk  
5 about. Especially that I went into depression and I was just  
6 sleeping. I was easily sleeping until 2 o'clock in the  
7 afternoon. Just didn't show up in school.

8 Q. Before your father was murdered, was there something that  
9 you wanted to be when you grew up?

10 A. I wanted to be a nurse.

11 Q. Did you become a nurse?

12 A. No.

13 Q. Why not?

14 A. Well, also I became squeamish after the terror attack, and  
15 I have a hard time seeing too much blood. And also I  
16 couldn't -- where I was supposed to learn nursing was at a  
17 place where I had to dorm away from home. I couldn't do that  
18 to my mother and to my family. We always made sure to stay  
19 very close together. We lost one, we don't want to lose  
20 another. And there was no way that I was going to dorm away  
21 from the house, especially that then I was my mother's right  
22 hand, and I helped out a lot in the house.

23 Q. Let's talk about that a little bit. Right after your  
24 father was murdered, who was helping your mother in the house?

25 A. Hannah, my older sister.



F25TSOK3

Kitay - direct

1 Q. Why did that stop?

2 A. She -- at some point she just crashed. She was on the go  
3 the whole time until she just had her own turn to crash. She  
4 couldn't any more.

5 Q. So when Hannah crashed, what did you do?

6 A. I took over. I took over. I would take care of all the  
7 household, taking care of the kids, making them sandwiches. I  
8 didn't really know how to cook. I did the laundry. I was on  
9 top of the technical stuff in the house that I could handle at  
10 that age.

11 Q. How old were you?

12 A. Fifteen and a half, 15 maybe.

13 Q. Esther, where was your mother?

14 A. She had to be -- she had to start being two people in one,  
15 a mom and a dad. Anything he did, now it was on her shoulders,  
16 too. She used to be a mother in the house all the time. We  
17 would come home, food was ready. She would help us with our  
18 homework. She was always at home for us, always there for us.  
19 After she just had to take on herself everything that usually  
20 two people split. It's enough for her to have one kid that she  
21 has to deal with or find a school for, one phone call that she  
22 can't be around in the living room with everything, she can't  
23 hear, she has to close herself in the room. She's in the room  
24 for that one hour on that phone call and all the other kids  
25 around feel like she neglected them or she's not taking care of

F25TSOK3

Kitay - direct

1     them, when she really is just trying to handle and take care of  
2     everything at once.

3     Q.   What kind of things did she have to take care of?

4     A.   Everything.   First of all, the finances, that she wasn't  
5     used to taking care of.   All the kids.   Like I said, it's  
6     enough to have one kid that she needs to focus on right now  
7     finding a school, or right now they need something specific and  
8     she can't be one person in two places.

9             And with all that, she -- after all, she lost the one  
10    she loved most.   My father took care of her in every way.  
11    Treated her with royalty.   She wasn't missing a thing.   She  
12    always had him to lean on.   She always had him loving her and  
13    taking care of her.   And now that's gone.   She doesn't have  
14    that anymore.   She's on her own.   As much as she tries to run  
15    from thing to thing or from issue to issue, she has her own  
16    self that she doesn't even get to take care of.   My father  
17    always took care of her.   She was always number one.

18            She now in front of us always has to look strong.  
19    There's times where she can just lay in bed not get out of bed  
20    in the morning.   She has no one to lean on.   She has no one to  
21    be with in the hard times, no one to share with.   She has no  
22    one that can replace him.   She really lucked out for those few  
23    years, now she's stuck.   No one can take his place.   Her heart  
24    is just shattered.   It can never be put back together.

25    Q.   Esther, are you angry that you had to take over those

F25TSOK3

Kitay - direct

1 responsibilities when you were just 15 and a half years old?

2 A. No, not at all. My mother never forced it on me. I saw  
3 what was necessary and I took it upon myself. I figured I will  
4 try to help her out in a way that I can. Anything else I  
5 didn't know how to do and I couldn't do, that's the little bit  
6 that I can actually help her out with and take it off her head.

7 Q. You told us that your father was your mother's support.  
8 Tell us a little bit about their relationship. Do you remember  
9 what they were like together before he was murdered?

10 A. They were best friends. They were always together as a  
11 team, everything thought out together. It was a dream  
12 relationship. I wish it to everyone. He treated her with  
13 royalty. He always -- he always took care of her.

14 Q. Did other people, strangers, even know about this?

15 A. He actually had a day that he called Shifra's day, that it  
16 would be a special day for my mother where he would take her  
17 out, and whatever she needed for the house or the garden, that  
18 was a time just for her that he would pamper her. And actually  
19 not long ago I was at a flower store that he used to go to with  
20 her a lot, and he mentioned to me about the Shifra's day, that  
21 he knew it was a day special for Shifra when my father would  
22 show up with my mother in those days.

23 Q. Who said that? The man who owns the flower shop?

24 A. Yes, the man who owns the flower shop, he still owns it.  
25 And every time I go in there he mentions how my father was full

F25TSOK3

Kitay - direct

1 of life and always walked in with a smile, and he also  
2 mentioned Shifra's day.

3 Q. Esther, when you were doing those house chores and helping  
4 around the house, was there a particular way that you did it?

5 A. I had OCD, I guess. I was very, very, very picky with the  
6 way I hung the laundry or folded it or put things away, and it  
7 had to be -- I felt like I lost control after my father was  
8 murdered. I tried catching some -- getting some things under  
9 control, I guess, in that way. And there were times where  
10 someone else would try to help out, I would throw a fit, mess  
11 up what they did and redo it again.

12 Q. Did you ever have those issues before your father was  
13 murdered?

14 A. No.

15 Q. Did you have any other emotional issues after your father  
16 was murdered?

17 A. I have a hard time concentrating, like I said. I get very  
18 edgy and low on patience. I have more, but I can't think of  
19 it.

20 Q. Did you ever go see a therapist or seek any kind of  
21 professional help?

22 A. I did, but not too much. I didn't like going. I preferred  
23 to close it in and bottle it up and keep it in to myself.

24 Q. Do you have fears today that you associate with your  
25 father's death?

F25TSOK3

Kitay - direct

1 A. I have a fear for my own house that I shouldn't lose, and  
2 for my kids to lose their father.

3 Q. And how does that manifest itself?

4 A. I have it in the back of my head all the time. I always  
5 make sure to take pictures, because we don't have pictures of  
6 us with my father. That way nothing should happen, but at  
7 least I will have memory.

8 Q. How many children do you have?

9 A. Two.

10 Q. Boys or girls?

11 A. Two boys, little ones.

12 Q. How old is your oldest?

13 A. Two and three-quarters.

14 Q. What's his name?

15 A. His name is Yechezkel Yair. Yechezkel is named after my  
16 father, and Yair we added. It means to lighten up, that  
17 hopefully he should lighten up the loss of my father and bring  
18 light to my family and comfort.

19 Q. How did your naming your son after your father affect your  
20 mother?

21 A. She had a very hard time. I mean she knew that that's  
22 going to be the name, but for the first year she was calling  
23 him just "Baby," and it was too hard for her to call him the  
24 same name. Until one point where I asked her if she prefers  
25 that we call him the middle name, so she told me no, it's

F25TSOK3

Kitay - direct

1 comforting, she's getting used to it, and in some way it's my  
2 father continuing with us.

3 Q. Esther, do you have a special memory of your father  
4 interacting with your mother and all of your siblings together  
5 at once?

6 A. Yeah, the tape that we found not long ago. Apparently we  
7 made a tape for my grandfather, who lived in New York, when he  
8 was sick a year. We made the tape a year before my father was  
9 murdered. And it's amazing, like I heard it not long ago, I  
10 heard it a few times since. You hear my father really  
11 interacting on the tape.

12 He starts the tape with naming us. We were supposed  
13 to sing on the tape, we were all together as a family, we did a  
14 choir. So he put the name for our little fancy choir. So he  
15 gets on the tape and says: Hi, this is the Goldberg Beitar  
16 Israel Group. Okay, Goldberg Beitar Israel Group, that's a  
17 good name. And okay, and he puts on a song of Yitzhak, my  
18 brother, singing. He was in a choir, so they recorded him  
19 privately, so they put the song on.

20 And after that, in between my mother is like in the  
21 middle mentioning: I think it's too long, the name. So that  
22 song is over, and you hear my father on the tape go: Okay, we  
23 heard some complaints about the name of the tape, so I think  
24 we're going to change it to the Goldberg Gang, the Goldberg  
25 Gang. Okay, we'll leave it as the Goldberg Gang and adjust the

F25TSOK3

Kitay - direct

1 name as we go on the tape.

2 And he was continuing naturally on the tape, any  
3 mistakes went on, he didn't start erasing or going back, he  
4 just fixed it up. And we start singing as the choir, and I  
5 remember he lined us up in the living room, and he said  
6 everyone line up. And you hear noises on the tape, and he's  
7 like I didn't say you have to start cleaning up the whole  
8 house, just line up in a row. And we line up in a row, and he  
9 was standing there, he was the conductor, and anyone who was  
10 supposed to do harmony, he pointed at them.

11 And on the tape you hear him go -- we start singing,  
12 and no, no, no, no, no, oh, my God, we're on tape. That was  
13 great, that was really great, you did a great job. Okay, we're  
14 going to start this from the beginning.

15 Then again we start again, and everyone starts  
16 giggling in the middle. So he stops, and he's like okay, we  
17 don't put the tape on rewind because we're trying to keep the  
18 cost low, so we'll start it again and hopefully this time it  
19 will be good. And we started it again, and at some point I  
20 think he put it on pause, and then he gets back on saying: We  
21 put it on pause because we didn't want you to just hear what  
22 the consequences were of whoever giggled in the middle and how  
23 they reacted.

24 In the meantime you hear the whole thing, and we're  
25 laughing, and you hear him full of life and full of -- really

F25TSOK3

Kitay - direct

1 full of natural happiness, and it's just flowing in him and  
2 it's on the tape. He didn't shut it off to fix us up, he made  
3 a joke out of it, and it really makes you laugh.

4 And then I had a brother say -- my little brother was  
5 saying a joke, and so my father made sure to repeat everything  
6 he said so it would be clear for my grandfather. So he goes  
7 the fish didn't know how to swim. Okay, the fish didn't know  
8 how to swim. Then what? So he went to the psychologist. Went  
9 to psychologist. Wow. And then what? Then he didn't know  
10 what to say, so he went back to the water. Went back to the  
11 water? And then what? That's the end of the joke. That's the  
12 end of the joke? Ha, ha, ha. And you hear him giggle on the  
13 tape as if it's a real laugh. And says by the way, I think the  
14 punchline of the joke was that the fish didn't know how to  
15 swim.

16 But then someone mentioned -- I think my mother  
17 mentioned something about her father, and he's like: What am  
18 I, chopped liver? You hear another kid go: What am I, hummus?  
19 What am I, coleslaw? And each said kid is saying something  
20 else, and he's like hey, stop talking about food, we didn't eat  
21 dinner, maybe let's take a dinner break.

22 And this is all naturally on the tape, and I'm  
23 listening to the tape and I'm thinking wow, like he's really  
24 full of life, what a loss. What a loss. Something that can  
25 never -- you can never fill in. Life would have been so much



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Kitay - direct

1 better. Life would have been so much more optimistic. I feel  
2 like we wouldn't have felt the darkness. It's gone. The tape  
3 just helps me remember what -- how much we're really missing,  
4 how much he could have been with us through everything and a  
5 lot of problems wouldn't have existed.

6 Q. Did you tell your mother that?

7 A. Yeah, I called my mother after the first time I heard the  
8 tape and I told her: Mommy, I just heard the tape and it's  
9 amazing how Abba's all involved and so full of life and makes a  
10 joke out of every mistake and it becomes natural and you  
11 forget. She says to me: I never forget. I can never forget.

12 MS. WEISER: I have no further questions, your Honor.

13 MR. ROCHON: No questions. Thank you, your Honor.

14 THE COURT: Thank you, ma'am. You can step down.

15 Do you want to take the lunch break or start with the  
16 next witness?

17 MR. YALOWITZ: I think we should take the lunch break.

18 THE COURT: We'll do that. Ladies and gentlemen,  
19 don't discuss the case, keep an open mind, let's start again at  
20 1:55. I think we're on schedule.

21 (Jury not present).

22 THE COURT: We'll take a lunch break.

23 (Luncheon recess taken)

24 (Continued on next page)

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AFTERNOON SESSION

1:55 p.m.

(Jury not present)

MR. YALOWITZ: Are we ready to bring the jury in?

THE COURT: I am ready to bring the jury if you're  
ready with your next witness.

MR. YALOWITZ: We are ready, your Honor.

THE COURT: Let's go ahead and proceed.

We will bring in the jury.

(Continued on next page)

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(Jury present)

THE COURT: Mr. Yalowitz.

MR. YALOWITZ: Thank you, your Honor. We are now going to move to the Coulter family. Our next witness is Robert Coulter, Sr.

Ms. Pildis will be conducting the direct examination.

ROBERT COULTER, SR.,

called as a witness by the plaintiffs,

having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. PILDIS:

Q. Good afternoon, Robert.

Are a U.S. citizen?

A. Yes, I am.

Q. Where do you live?

A. I live in Cape Cod, Massachusetts.

Q. If you don't mind my asking, how old are you?

A. 78.

Q. Are you currently working?

A. No.

Q. Can you tell us what you did for a living before you retired?

A. I was a process piping engineer for nuclear plants for an engineering corporation in Boston.

THE COURT: If you can just move a little closer to

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1 the microphone.

2 Q. Did you serve in the military?

3 A. I did.

4 Q. What did you do?

5 A. Electrician.

6 Q. In what branch of the service?

7 A. U.S. Navy.

8 Q. How many children did you have?

9 A. Three.

10 Q. What were their names?

11 A. Robert, Jr., Janice and Dianne.

12 Q. Is that the order that they were born in?

13 A. That's correct.

14 Q. Where did you raise your family?

15 A. In Boston.

16 Q. Can you tell us a little bit about your daughter Janice as  
17 a girl?

18 A. She was a sweetheart. I was her favorite. Every time I  
19 would come home from work she would jump into my arms and I  
20 would hold onto her and she would tell me how much she loved  
21 me. I would have to sit down, eat my supper with her, feeding  
22 me and her at the same time. It started that way. It never  
23 changed.

24 Q. Where did she go to high school?

25 A. Boston Latin school.

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1 Q. Did she go to college?

2 A. Yes, she did. UMass Amherst.

3 Q. I would like to show you a photograph.

4 MR. ROCHON: I apologize for this. May we briefly  
5 approach the bench on an issue?

6 THE COURT: Yes.

7 (Continued on next page)

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1 (At the sidebar)

2 MR. ROCHON: I am not a hundred percent sure, but I  
3 think there was a written note that we received over lunch that  
4 relates to this witness.

5 MR. YALOWITZ: No, it's Carter.

6 MR. ROCHON: My mistake. We can talk about it before  
7 Carter.

8 (Continued on next page)

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1 (In open court)

2 BY MS. PILDIS:

3 Q. Sorry about that.

4 I want to ask you if you're familiar with this photo  
5 before I put it up on the screen to show it to the jury.

6 A. Yes, I am.

7 Q. Who is in the photo?

8 A. Pardon?

9 Q. Who is pictured in the photograph?

10 A. Myself, my son Robert, and Janice.

11 MS. PILDIS: Plaintiffs move to submit Exhibit 1234  
12 into evidence.

13 MR. ROCHON: No objection.

14 THE COURT: It will be admitted in evidence.

15 (Plaintiffs' Exhibit 1234 received in evidence)

16 Q. Do you recall where you were when this photograph was  
17 taken?

18 A. Rangeley, Maine.

19 Q. Did you go there often?

20 A. Every summer for about five summers in a row.

21 Q. Can you tell us who is who in the picture?

22 A. Say that again, please.

23 Q. Can you tell us who is who in that picture?

24 A. That's myself bending over and my son Robert, who has lost  
25 control of the fishing rod and I was trying to get it loose for

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1 him. Janice was smiling for her mother. I had to laugh when I  
2 saw that. I haven't seen it in a while.

3 Q. Why did it make you laugh?

4 A. Just the smirk on her face. That was her.

5 Q. Did your family go to Rangeley, Maine, often?

6 A. We went five times. About every summer we would go, in  
7 July.

8 Q. What was it like?

9 A. It was in the country. Rangeley, Maine, had a big lake and  
10 we found this little pond, which is just opposite from where it  
11 is, and we had a cottage there. The fishing was great. And I  
12 brought the kids up to a little area where you weren't allowed  
13 to have any boats, so you had to fish off the little pier that  
14 was there. It kind of wobbled, and if you went too far you  
15 went up to your knees in water. We were all having fun.

16 Q. Do you recall how old Janice was in that picture?

17 A. No. No I couldn't say.

18 Q. Do you remember what years you went to the cottage?

19 A. It was during the late '70s. Probably between '75 and '80.

20 Q. What age was she during that period?

21 A. She was probably around, probably 13.

22 Q. Did she go to college?

23 A. Yes, she did.

24 Q. Did she ever go on to do any graduate work?

25 A. Yes. She did, yes.



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1 Q. While she was in graduate school, did she study overseas?

2 A. She went to the University of Denver for her master's  
3 degree, and she found out that she could do her first year at  
4 Hebrew University in Jerusalem. So she decided she would do  
5 that. It was the first time she had been away. So she really  
6 just enjoyed it.

7 Q. What did she do when she finished her graduate degree?

8 A. She was working for Jewish philanthropies in Boston. Did I  
9 say that correctly? And she heard about a job opening in New  
10 York at Hebrew University, that she was familiar with, and she  
11 applied and got the job. So she worked there for a couple of  
12 years before this happened.

13 Q. Can you describe what Janice was like as an adult?

14 A. Well, she had a couple of boyfriends, but she kind of shoed  
15 them away. She was very particular in her choices. So she was  
16 still looking for her knight in shining armor, I guess you want  
17 to say, but she had a lot of friends. They would come to my  
18 house sometimes. They would all get together and make a date  
19 for themselves, five or six girls, and go out clubbing and come  
20 home afterwards and tell me to get out of the room. So I went  
21 to the kitchen and watched TV, and I could hear the stories  
22 they were telling. So I knew they had a great time.

23 Q. Is it your understanding that she wanted to get married and  
24 have children?

25 A. Absolutely, yes.

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1 Q. What was your relationship like with her when she was an  
2 adult?

3 A. When she was single?

4 Q. When she was an adult.

5 A. We would have all kinds of conversations about politics and  
6 religion, and religion was her favorite. We talked about her  
7 converting to Judaism, and we had our doubts about it at first  
8 but then I remember what I told her. When they got older they  
9 would understand a little better about what life is like and  
10 whatever religion you want to be, you can just do what you  
11 want. We live in the United States and it's a free world. So  
12 she told me she wanted to convert and I said OK, I will go with  
13 you.

14 As a result of my family -- I was raised in the  
15 Episcopal church and kids went to Sunday school. We all went  
16 together. And as we got older, my son Robert married a Roman  
17 Catholic girl and he converted, and Janice decided she wanted  
18 to convert to Judaism. So we went to handle that with her, her  
19 mother and I. Dianne married a Catholic boy, and they got  
20 married in the Episcopal church. So I have a league of nations  
21 there.

22 That's the way it's been. It is a great time.  
23 Everybody gets together and we don't talk about religion or  
24 anything like that. We just do our own thing and have a good  
25 time.

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1 Q. Were you close with Janice?

2 A. Yes.

3 Q. I know this is a difficult question, but did you consider  
4 yourself closer with Janice than your other children?

5 A. I hate to say it, but yes I did.

6 Q. Once Janice moved to New York, how often did you speak with  
7 her?

8 A. She would call me a couple of times a week. She called her  
9 mother a couple of times too. When her mother was sick she  
10 would call her every day and see how she was doing and when she  
11 couldn't talk to her anymore, she would talk to me. I told her  
12 to call a couple of times a week and I will tell you how she's  
13 doing. There is no sense in getting yourself worked up in what  
14 is going to happen.

15 We knew she wasn't going to live. She had lung  
16 cancer, and we fought it for three years. So we had a real  
17 close relationship with her from New York. She would come home  
18 every other week and I would take her to the bus stop and send  
19 her back again. She was always staying close.

20 Q. When did Janice's mother die?

21 A. November 2000.

22 Q. Did Janice help you get through that period?

23 A. Yes, she did. Yes.

24 Q. How did she do that?

25 A. By telephone calls. She would come home every other week,

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1 like I said. Just her being there and having fun with her  
2 girlfriends or whoever she was going to go out with that night.  
3 Just that she was there for me. I could talk to her any time  
4 and talk about anything. But it was different because at that  
5 time I was all alone in the house. So the kids were out having  
6 their own life and I was trying to figure out what my life was  
7 going to be.

8 Q. I would like to ask you to think back to the day that your  
9 daughter was killed.

10 A. Say that again, please.

11 Q. I would like to ask you to think back to the day your  
12 daughter was killed.

13 A. Yes.

14 Q. Can you tell me about that day starting first thing in the  
15 morning when you woke up?

16 A. I like to watch Fox TV in the morning because I get all of  
17 the national news. So I woke up at about 6:00 that morning and  
18 I turned the TV on and I decided whether I was going to get up  
19 and make coffee and what I was going to do.

20 So I got up and all of the sudden I heard the news  
21 story of a bombing in Jerusalem, in Israel. I stopped right in  
22 my tracks and I just looked at the TV and stood back and sat at  
23 the end of the bed and just watched it. Then they said it was  
24 a bombing in the cafeteria and I said, oh, my goodness. I  
25 looked at my watch and I said it's 6:30 and it would be 1:30 in

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1 the afternoon over there. I said, geez, I hope she is not  
2 there. It was a terrible thing to see, but they brought a body  
3 bag out on the TV station, right on it, and went right down to  
4 where she was laying and I knew it was a girl, had blond hair.  
5 I said, oh, my goodness, that's Janice.

6 I fell apart. I just started screaming. I wouldn't  
7 want to repeat some of the things I said at that time. But I  
8 was asking God why. She was such a nice girl.

9 Q. How did you know it was your daughter?

10 A. I just knew. I just knew it was her. Intuition, whatever.  
11 I was hoping I was wrong, but I wasn't. We called New  
12 York -- actually, I called my daughter Dianne first and told  
13 her to turn the TV on. She called me back and said she had  
14 talked to New York and they said she was injured and was in the  
15 hospital and she would be all right. I said, no, that's not  
16 right. That was her. No one would believe me. They didn't  
17 want to believe me. I couldn't believe myself that I was  
18 talking like that, but I did.

19 From that point for the next two or three hours I  
20 don't remember what happened. I just can't recall. I was just  
21 all upset. Until my son came and he was on his way to work. I  
22 got in touch with him and he came over to the house. So the  
23 three of them were there with me. They were talking to me and  
24 telling me it was not her. I said, yes, it was her. I never  
25 gave up that thought that I was right.

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1           Finally we got a call from the embassy in Tel Aviv  
2           saying that they needed a copy of her dental, of her mouth.  
3           Janice's boss and Janice went to the same dentist. So they got  
4           the negatives and they sent them over there and they proved it  
5           was her.

6           She also had a bracelet on her wrist. She was  
7           allergic to beestings. She always carried that bracelet with  
8           her. They identified her and called me back about 5 or 6:00  
9           that night and told me it was her. I just looked at everybody  
10          and said I told you it was her. I didn't want to feel smart  
11          about myself, but I just knew. I think a father's instinct or  
12          whatever it was. And I cried.

13       Q. What was Janice doing at Hebrew University that day?

14       A. She was on a three-day business trip with the university  
15       and she had taken students over there to show them around,  
16       where she had spent the first year as a student herself. She  
17       knew the place very well so she was selected to take the  
18       students over there. These were kids -- not kids. They were  
19       grown people who go away for master's degrees and doctorate  
20       degrees and all these different courses they have.

21               She just enjoyed doing it. She had a pleasant way  
22       about her. She could talk to anybody and make them feel  
23       comfortable. She showed them all around the school, and that  
24       was part of her job, besides when she was back in Boston, or  
25       back in New York, I should say. She would go around the school

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1 and talk to the people that applied. She took a three-day trip  
2 to bring them over there.

3 Q. Do you remember the last time you saw Janice?

4 A. It was two weeks before that. She had come home and told  
5 me that she was going to go. I said, You went just a couple of  
6 months ago. I said, It's a pretty tough place to go right now.  
7 And she says, Yes, I know. Amy was supposed to go -- that's  
8 her boss -- but her mother got sick so she asked Janice if she  
9 would go again and she said she would.

10 So I was upset about it. She was upset about it too.  
11 She didn't really want to go, but I drove her back to the bus  
12 stop that Sunday evening and we said our goodbyes. When I  
13 driving out of the parking lot, I stopped my car and looked  
14 back and she was standing there waving at me and I wanted to go  
15 back and get her.

16 Q. At some point did you get an official confirmation that  
17 your daughter had been killed at Hebrew University?

18 A. Say that again.

19 Q. At some point did you receive an official confirmation that  
20 your daughter had been killed?

21 A. Just from the State Department. Officially I got a death  
22 notice. That's all I got. I don't remember anything else.

23 Q. How did her body come back to the United States?

24 A. In a cardboard box with flowers all over it. I didn't see  
25 the body until the following day. The funeral home people told

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1 me not to touch the body. She was very delicate. So we  
2 observed from beside the casket. I gave her a kiss right away.

3 Q. Where was she buried?

4 A. She was buried with her mother in the same plot. Both  
5 names are on the grave. I have a plot there that's mostly all  
6 Coulters, and my mother and father are there, my brother, my  
7 sister and my wife and Janice. And my name is on the stone too  
8 with no finished date yet.

9 Q. Can you tell us about the first few weeks after Janice was  
10 murdered?

11 A. Can I do what?

12 Q. Can you describe the first few weeks?

13 A. Not too well. My recollection is not that clear for that  
14 time on. I remember a lot of people coming, my cousins and her  
15 friends. It was a busy time reading letters from people. They  
16 came from Australia, from France, Africa. All these people  
17 that she knew from the university.

18 Then we had newspapers with her pictures in it. It  
19 was a busy time, just keeping myself busy with her information  
20 that I had to read through and answer some letters. I had a  
21 lawyer from New York that was helping her with her bills and  
22 finalizing all her bills and everything. So I spent a lot of  
23 time talking with her.

24 Q. Were you able to sleep?

25 A. No, no. I had a problem of my own. I was drinking a lot.



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1 Hopefully it would put me to sleep, and it did for a while, but  
2 then after a while it didn't. So I couldn't sleep. I was  
3 going crazy. I was just beside myself. And I said I have a  
4 problem.

5 So I went to the doctor and my doctor was on vacation.  
6 So I had to see another doctor, and she didn't know me. But I  
7 walked in and I crashed. I just started crying. I couldn't  
8 stop. She thought I was a drunk, but I hadn't had a drink when  
9 I saw her. She got some sleeping pills for me and she said she  
10 wanted to see me in a couple of days. So I got the pills and  
11 everything and I went home and they worked. So I went to sleep  
12 and I felt better the next day, but the drinking didn't stop.  
13 It was like a ritual for me.

14 I was retired at the time. So I had a nice garden out  
15 back. I did a lot of gardening, and I had a swimming pool in  
16 the backyard. So I would swim and sit there all by myself and  
17 I would come back in the house and make my lunch at about 3:00  
18 and have a couple of drinks. Then sit there and watch TV and  
19 read the newspaper and have a couple of more. And then it just  
20 got worse and worse. So I couldn't sleep and I had a couple of  
21 more.

22 That's what got me going to the doctor. It didn't  
23 change afterwards. I still kept the alcohol going, and finally  
24 I slowed down and I said to myself I am not going to drink  
25 during the week but I could have a drink on the weekends. So I

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1 did and I went that way for quite a while. But then I just  
2 decided I had to leave the house and do something different.

3 So I put my house up for sale and bought a place on  
4 Cape Cod. And it was a condo, so I didn't have to do any  
5 outside work. And I met a lot of new people, but the drinking  
6 kept ongoing. One night I fell down and hit myself in the head  
7 with the night table, fell right into it, and I wound up in the  
8 ER. And they told me if I hadn't got there, if I had gotten  
9 there an hour later, I might have been dead.

10 So that shook me up and I straightened myself out. I  
11 went to AA and I got help and just felt better about myself.  
12 Then I stopped going to AA and said I didn't need it anymore.  
13 I met a very nice lady, and she was a nurse, and I always  
14 said -- my mother was a nurse, and I said if I ever got married  
15 again, I'm going to marry a nurse. So I met her and we went  
16 together for six months and we got married. So I started a new  
17 life for myself, but the drinking didn't stop. It didn't stop  
18 at all.

19 I started drinking again, and I had another crash.  
20 This time I wound up in the ER. I came out of there and I was  
21 in the hospital for about a month, and I went to rehab for  
22 another month, and I started going to places where you could  
23 have a group of people in a circle and talk. That's the first  
24 time I was able to talk about Janice. That's when it hit me  
25 that I could talk about her. I didn't have to hold it in

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1 anymore. And I talked to everybody about it.

2 I started feeling better, but it never goes away. I  
3 had some dreams that I saw a girl walking down the street with  
4 blond hair and I said, oh, geez, that looks like Janice. I  
5 have got to behave myself. Somebody will get upset with me if  
6 I make a mess of everything here. Those things slapped me in  
7 the face and I just kept on looking. Every time I saw a blond,  
8 I had to go look to find out who she was. I even saw a couple  
9 that looked like her. I said, oh, my goodness, I have got to  
10 stop this. This is ridiculous.

11 I did a lot of daydreaming about her. I didn't do  
12 much dreaming at that time. As long as I had the daydreams and  
13 thoughts about her, I did a little better. It hasn't changed.  
14 It's still the same.

15 Q. Do you feel as if you have finished grieving for your  
16 daughter?

17 A. No. You can see me today. I will never stop. I probably  
18 never will. But I do feel better. I haven't been drinking. I  
19 have a glass of wine every once in a while when I take my wife  
20 out to supper or dinner and that's all I will do. Nothing  
21 else. So that's been -- even that's in the back of my brain  
22 all the time. I really want another drink, but I won't have  
23 one. It's helped me.

24 Q. Do you have memories of your daughter that come out of the  
25 blue?

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1 A. Absolutely, yes.

2 Q. What do you remember about her?

3 A. Oh, it's always something that happens to other people.  
4 Someone gets killed and I see with the parents standing there  
5 with a young child and I cry. I see people getting killed in  
6 Israel and I cry. I don't think that will ever change.

7 Q. Do you ever think about the sights that you saw on  
8 television on the day that she died?

9 A. Absolutely. It's embedded in my head. I will never forget  
10 that.

11 Q. How do those thoughts affect you?

12 A. What?

13 Q. How do they affect you?

14 A. Does it affect me? Daydreams again. I picture her in the  
15 bag, in the black bag, and someone bringing her out and laying  
16 her on the floor outside, whatever the building was that they  
17 were taking her out of, and the TV station had the camera, like  
18 I said, right on her, but it was probably about 20, 30 feet  
19 away but I could see the outline of her face and it's there all  
20 the time.

21 Pardon me.

22 Q. Robert, I know that you had a series of losses in a short  
23 period of time. Can you describe those losses for me?

24 A. Yes. I said about my wife being sick. I go back to when I  
25 got retired from my business. Nuclear power plants weren't

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1 being built anymore and I was laid off from my job and I was 59  
2 and a half at that time. So I tried to look around and see  
3 what else I could find. There was nothing in my business. So  
4 I just said I would take early retirement.

5 So I took all of my money out of my 401(k) and my  
6 retirement plan. I started in February of '96, and I took care  
7 of my wife for three years before she died. During that period  
8 Dianne had got married and her husband died from a kidney  
9 failure. So we had his burial first in 1999. Then my wife in  
10 2000. My brother John had come down with colon cancer and he  
11 died July 3rd of 2002. And then Janice died July 31 of 2002.  
12 And that's when I went berserk. I just went crazy. I was all  
13 by myself except when the kids would come over. But when they  
14 left, I would hit the bottle again and go crazy, whatever.  
15 That was the best way I could say it, because I was.

16 Q. Which of those tragedies has been the hardest for you?

17 A. I'd say probably Janice, yes. Because I wasn't expecting  
18 that one. The others we had little warnings about and they  
19 happened and we went through it and we all went through it and  
20 I had to help Dianne with her loss, and her mother was gone and  
21 I was all by herself. A guy trying to help a woman grieving  
22 about her husband, and I don't have words for her.

23 So she finally found a group of people, women who had  
24 lost their husbands, and she joined that group and did a lot  
25 better. So it kind of relieved me of my duties a little there,

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1 made me feel a little better. But when my wife died, I knew  
2 that was going to happen and I was right with her when she  
3 passed. So we had a big funeral for her because she had a lot  
4 of friends. She worked for the American Heart Association and  
5 the funeral home was just packed with people.

6 Then my brother John died, and I didn't expect that  
7 but it happened pretty fast. Within two months he was gone.  
8 And then when Janice got hit, I was, oh, my goodness, that just  
9 blew me away.

10 Q. What is it like for you on the anniversary of her death?

11 A. Many years. It's been 12 and a half years now. It was  
12 drinking, crying on my own, whatever. When I finally stopped  
13 drinking that last time, I thought about Janice on the 31st of  
14 July, the day before the day she died and a couple of days  
15 afterward, and I said to my wife, I did something new. I  
16 didn't have a drink. And I talked about it and I said, I'm  
17 going to be all right.

18 But it never really changes. The thoughts are still  
19 there. The picture is always in my mind. She was a beautiful  
20 girl, if I can say so myself.

21 Q. Are there other times that are especially hard for you?

22 A. Probably family gatherings and stuff like that when she is  
23 not there anymore.

24 Q. Robert, are you a citizen of the United States?

25 A. Am I a citizen? Yes, I am.

F258SOK4

R. Coulter, Sr. - direct

1 Q. Is this different because it's a terror attack as opposed  
2 to say an accident?

3 A. It's much different. She was murdered. Someone set a bomb  
4 and killed her. The others had their sickness, but Janice  
5 wasn't sick. They just took her life, and took part of me with  
6 her.

7 Q. How often do you think about Janice?

8 A. How often do I think about her? Every day. I don't think  
9 a day goes by that I don't see her. I mean up here.

10 Q. Do you think that will ever go away?

11 A. I doubt it. I don't think I want it to. I will always  
12 remember her.

13 MS. PILDIS: I have no further questions.

14 THE WITNESS: Thank you.

15 MR. ROCHON: No questions, your Honor.

16 THE COURT: Thank you, sir. You can step down.

17 (Witness excused)

18 MR. YALOWITZ: Judge, I am just going to walk out.

19 THE COURT: You want us to continue?

20 Call your next witness.

21 MS. PILDIS: Plaintiffs call Robert Coulter, Jr.

22 ROBERT COULTER, JR.,

23 called as a witness by the plaintiffs,

24 having been duly sworn, testified as follows:

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R. Coulter, Sr. - direct

1 DIRECT EXAMINATION

2 BY MS. PILDIS:

3 Q. Good afternoon, Bobby.

4 A. Good afternoon.

5 Q. Where are you from?

6 A. Boston, Massachusetts.

7 Q. Do you live in Boston now?

8 A. No, I do not.

9 Q. Where do you live?

10 A. I live 20 miles south, a town called Whitman, Mass.

11 Q. Are you a citizen of the United States of America?

12 A. Yes, I am.

13 Q. What do you do for a living?

14 A. I am a capital products manager for a pharmaceutical  
15 company.

16 Q. Did you serve in the military?

17 A. Yes, I did.

18 Q. What did you do in the military?

19 A. I was machinist in the U.S. Navy.

20 Q. I didn't hear you.

21 A. I was a machinist in the U.S. Navy, in the submarine  
22 service.

23 Q. Did you serve on a submarine?

24 A. Yes.

25 Q. What was your childhood like growing up?



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R. Coulter, Jr. - direct

1 A. Pretty average, I would say. Four-family person. A lot of  
2 activities, a lot of love, a lot of activities with between  
3 schools, after schools. My parents got us busy in different  
4 activities, with bands and different organizations and such.  
5 We were always together. We were always fooling around.  
6 Loving. Always doing practical jokes on people and ourselves  
7 at times. So it was joyful. Very active.

8 Q. Are you the oldest?

9 A. Yes, I am.

10 Q. What is the age difference between you and your two  
11 sisters?

12 A. Janice is three years. Dianne is youngest.

13 Q. How close were you with your sisters growing up?

14 A. Up until I was 18, we were real close. When I was 18, I  
15 went into the service. We did a lot of activities together  
16 between vacationing, did a lot of traveling within the New  
17 England areas to outside activities with schools. So we were  
18 always together.

19 Q. As you grew into adulthood, did you stay close with your  
20 sisters?

21 A. I did. It was a little tougher back then from 18 on.  
22 Being in the service, you were off to sea a lot. Technology  
23 wasn't there to have the communication we have today. When I  
24 was on land, I would probably call home once or twice a week,  
25 talk to the girls, because they were still in high school

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R. Coulter, Jr. - direct

1 themselves, talk to my parents. Writing a letter was more  
2 popular back then than it is today obviously.

3 Q. After your sister Janice got her graduate degree, where did  
4 she live?

5 A. At home with my parents.

6 Q. Did she eventually move out of the Boston area?

7 A. Yes. She moved to here, in New York.

8 Q. Did you visit her here?

9 A. I did once -- I visited her once here and when she passed  
10 away we came back again.

11 Q. Who did you visit her with?

12 A. My wife.

13 Q. Was it fun?

14 A. Absolutely. It was kind of a vacation that was unexpected  
15 for us. She was supposed to come home for her own vacation.  
16 Something came up. She had to work over the weekend. So we  
17 actually came down to kind of surprise her and stay over the  
18 weekend in town.

19 Q. Was Janice close with your wife?

20 A. Yes, very much so.

21 Q. I would like to go to the day that your sister was  
22 murdered. Can you tell me when you first heard that something  
23 was wrong?

24 A. Yeah. It was early in the morning. I was working for a  
25 company Gillette at the time. So I was driving to work. I was

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R. Coulter, Jr. - direct

1 on the expressway, which is the main highway going into town.

2 I listened to the radio and I heard flash news come across the  
3 radio saying that there was a bombing in Israel, but there were  
4 no true details as to where it was, location, what was the  
5 effects.

6 Q. Did you know that your sister was in Israel at the time?

7 A. Yes, I did.

8 Q. What was she doing there?

9 A. She was basically reporting in to Hebrew University. She  
10 was responsible for bringing students from the United States  
11 over to Israel for their master's programs or continuing  
12 education.

13 Q. Were you worried about her being in Israel?

14 A. I was.

15 Q. Did you discuss that with her?

16 A. On this trip for sure I did. She made several trips in the  
17 past, probably two or three previous to this one. We talked I  
18 believe Friday, Saturday night before she left. I just know  
19 how hard the tensions were at the time over there. Up until  
20 that point, if I recall, probably 30, 40 different incidents  
21 over the last 18 months. So I was very concerned about her  
22 traveling.

23 Q. What did she say about it?

24 A. Just that she was over there many times. That basically  
25 she also went to school there herself so she was accustomed to

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R. Coulter, Jr. - direct

1 the activities but she felt safe going from New York to the  
2 university. It was a safe haven for the kids there.

3 Q. At what point did you realize the attack had been at Hebrew  
4 University?

5 A. I got a phone call probably about 7, 7:15-ish that morning,  
6 Wednesday morning, from my father. He heard the same news  
7 report, but he was home watching TV and he basically said that  
8 the bomb was at Hebrew University. It was actually in the  
9 cafeteria. He explained to me what he saw on TV, about seeing  
10 Janice or seeing a body with blond hair and just being covered  
11 up and being carried out of the building. So they were showing  
12 that on a news watch. So he described that to me. And I said,  
13 Are you sure? He said, Absolutely. I said, I am leaving work  
14 now. I will be there in 20 minutes. So I just took off and  
15 went over to his house.

16 Q. What happened when you got to his house?

17 A. I was the first one there. So we were just talking, trying  
18 to figure out who is trying to do what. At the time he had  
19 already called my sister Dianne. I think she was already  
20 coming over from work. Basically, just communicating, trying  
21 to figure out who needs to do what, to contact who to get more  
22 details.

23 Q. Were you concerned at that point?

24 A. From what my father was describing to me and what I saw on  
25 TV afterwards, absolutely.

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R. Coulter, Jr. - direct

1 Q. When did you learn more about what had happened to your  
2 sister?

3 A. Later that night. I don't remember the time frame. It was  
4 like midnight or so we got confirmation from various resources.  
5 I believe it came from the American consulate was one of them.  
6 Hebrew University called. Janice's boss Amy also did some  
7 phone calls with us.

8 Q. What did you do when you found out that she was gone?

9 A. We all broke down. The three of us just grouped together  
10 and held each other real tightly and did a quick prayer. It  
11 was just very emotional for hours on end. We tried to pull  
12 ourselves together.

13 At that time also there were more people coming to the  
14 house. Between family and friends we were able to get ahold of  
15 ourselves a little quicker and just be together. We had to  
16 start planning things, what were the next steps.

17 Q. What were the next steps?

18 A. Getting Janice home, first of all. So we had to figure out  
19 who we needed to contact, who was going to deal with what. I  
20 did a lot of that legwork myself. My father was in  
21 communication with the people from Israel. We were dealing  
22 with all of our friends and family, getting them informed as  
23 well. We had over 40, 50 phone calls we had to make around the  
24 country to get people back to the Boston area.

25 Q. Who transported Janice's body home?

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R. Coulter, Jr. - direct

1 A. I don't recall. There was an actual friend who was over in  
2 Israel with her at the time. I think his name was Hal. The  
3 Israeli group helped organize and bring the body back home.

4 Q. Who met the body when it returned?

5 A. We all did. At the time we were then in communication with  
6 the FBI. They came by because anything with terrorism, as far  
7 as the U.S. goes, my understanding is they aid in that kind of  
8 process. So we had communication with people in our house with  
9 the FBI. They escorted us to Logan Airport to pick up the  
10 body. We met a couple of people there. Again, Hal, who was on  
11 the flight with Janice home. We met and talked with him a  
12 little bit. A friend of our father's, he helped arrange the  
13 tickets and her burial arrangements.

14 Q. What happened at Logan Airport?

15 A. From that point on, the body was transported to the  
16 coroner's office, which the next day Dianne and I went over to  
17 meet with the coroner but also met with the attorney general of  
18 Massachusetts, who were also with the FBI people. They were  
19 explaining the things they wanted to do. Apparently she still  
20 had some shrapnel in her. They showed us some pieces where  
21 they wanted to go and remove some of these pieces. We said go  
22 ahead and do that, maybe to help the cause and the case, would  
23 be beneficial.

24 Q. Was there a funeral?

25 A. Yes, there was. I believe after the body, we went -- I

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R. Coulter, Jr. - direct

1 should step back a little bit. Before we went to the coroner's  
2 office, we actually had the sighting with the normal -- my  
3 sister Dianne, myself and my father, we met with Janice's body  
4 only at this facility just to see her personally, so we could  
5 see how she was, kind of identify the body as well. We had to  
6 do that. So then we went through the procedural process, and  
7 we did the funeral arrangements.

8 Q. What was the funeral like?

9 A. It was very big, bigger than I had expected. Over 4, 500  
10 people were probably at the funeral, between all the friends  
11 and relatives, people from my own work were there, my sister's  
12 work. People came from New York, people from Hebrew University  
13 actually flew over. So there were quite a few people there.  
14 It was a great honor to see that many people there for her.

15 Q. Did you and your sister speak at the funeral?

16 A. My sister did. The night before we both put the whole  
17 letter together. I couldn't do it. So we arranged that Dianne  
18 would do it for us. So she was able to read the letter for us.

19 Q. How has losing your sister impacted your life?

20 A. Can you repeat that, please?

21 Q. How has losing your sister impacted your life?

22 A. It's very emotional. There's not a day that we don't think  
23 about her. As I mentioned before, I am married now, I have two  
24 children. We're pretty well open to everything we talk about  
25 and everything we say to each other. My own kids, they are 11

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R. Coulter, Jr. - direct

1 and 14 right now, they know what happened to her, they know how  
2 it happened, why it happened. Basically, we keep on  
3 communicating to each other.

4 So it has really impacted us. We don't stop thinking  
5 about it. It's kind of crazy. When she was first brought  
6 home, that whole week was just a blur. We didn't sleep at all.  
7 I still don't sleep that well. There's up and downs that we go  
8 through throughout the year and throughout the time. You never  
9 forget about the good times you went through.

10 Q. Did your children meet your sister?

11 A. No. My oldest boy Patrick, he is 14 now, but at the time  
12 he was a baby. She was home when we had a celebration for him  
13 and, basically, I have got vivid memories of her holding him.  
14 My youngest son Connor, she never met him; they never met each  
15 other.

16 Q. What do you tell your children about your sister?

17 A. There's all kind of stories, but basically we were one big  
18 family, we stuck together. There's always good stories that  
19 you want to present to your children. Hey, this is who she  
20 was, this is what she did.

21 Janice would have been the godmother of my second  
22 child Connor. When we had our first son Patrick, it was going  
23 to be either Dianne or Janice, my sisters, one was going to be  
24 the godmother. It was too close. I couldn't make a selection.  
25 In front of both of them so we went through a coin toss, and I



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R. Coulter, Jr. - direct

1 said whoever it is, this is what it is. So when that next  
2 child comes up, the next person will be the godmother. So my  
3 younger sister Dianne is the godmother of my son Patrick, and  
4 it would have been Janice for Connor. So that never really  
5 happened. We talk about that a lot today, even with Connor.

6 Q. How are holidays different without your sister?

7 A. Holidays were always fun at the Coulter house, and that was  
8 always driven from my mother's side. She had a big meal  
9 presentation. It took her almost the whole week to put  
10 everything together and two hours to devour it. It was always  
11 fun. Janice would come up from New York when she was living  
12 down here. She would tell us everything that happened to her  
13 life down here. It was fun to hear the stories. I lost base  
14 with her, but you hear more stories during the holidays.

15 Q. How are holidays for you now?

16 A. They are tough. We move on, but there is never a time we  
17 don't think about it. It's just very emotional that she is not  
18 there. We have pictures all over the house about her. It's  
19 tough because of the manner in which she passed away.

20 Q. Is it harder because of what you described as the manner in  
21 which she passed away?

22 A. Very much so. My father travelled a lot so he went away  
23 for months on end. He would come home every other week for  
24 vacation and weekends. But when he would go away, he would  
25 tell me I am the man of the house, I needed to take charge,

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R. Coulter, Jr. - direct

1 help my mother out, take care of the girls. So I always did  
2 that. It always stuck in my head that I was the older brother.  
3 In just this way I couldn't be there for her.

4 Q. Did you go back to New York after your sister died?

5 A. Yes. On a couple of occasions, yes.

6 Q. What happened the first time you went back?

7 A. The first time was to -- she was living in Brooklyn so we  
8 had to basically pack up her apartment where she was living and  
9 send it back home so we can sort through it and keep what we  
10 needed to keep and discard what we wanted to discard. But that  
11 same weekend we also had a little gathering with some of the  
12 organizations from Hebrew University and it was very touching.

13 Another occasion we came down here for a street naming  
14 ceremony for her. It was put on by the City of New York and  
15 also by Hebrew University as well.

16 Q. Do you recall what street is named after Janice?

17 A. 69th and Madison.

18 Q. How often do you think about your sister?

19 A. You don't stop thinking about it. You know she is not with  
20 you anymore, but you think what she could be doing. Her  
21 presence is always there with me. It's always there in our  
22 background. It's not a day that you don't think about her.

23 Q. Are you angry?

24 A. Yeah, I am actually angry. Again, the manner in which she  
25 passed away, the organizations that were involved. I'm an

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R. Coulter, Jr. - direct

1 ingrate myself because I was a big brother, so to speak, and I  
2 couldn't be there for her. So yeah.

3 MS. PILDIS: I have no further questions.

4 MR. ROCHON: No questions.

5 THE COURT: Thank you, sir. You can step down.

6 (Witness excused)

7 Ladies and gentlemen, let's take a break. We will  
8 take a ten-minute break. Don't discuss the case. Keep an open  
9 mind. I will see you in ten minutes.

10 (Jury exits courtroom)

11 (Continued on next page)

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R. Coulter, Jr. - direct

1 MR. ROCHON: Just one issue. Obviously, the last  
2 question about whether or not the witness was angry elicited an  
3 answer about the organizations involved. The witness has no  
4 personal knowledge of that.

5 I know plaintiffs' counsel don't control the  
6 witnesses, but I want to make sure you don't ask any questions  
7 that would elicit that kind of speculation going forward from  
8 witnesses who don't have actual knowledge of the incident.

9 THE COURT: I understand your position. When I heard  
10 what he said -- you assumed that the organization means he is  
11 referring to the defendant?

12 MR. ROCHON: No. It got close to the line. I  
13 actually assumed he was not referring to the defendant, but it  
14 obviously got pretty close to the line.

15 THE COURT: I understand.

16 MR. ROCHON: Thank you.

17 THE COURT: Let's take a break.

18 (Recess)  
19  
20  
21  
22  
23  
24  
25

F25TSOK5

(Jury not present)

MR. YALOWITZ: So with regard to scheduling, we have one more witness who we planned to do today. We're ready to go with her. We do have five for tomorrow. Mr. Rochon and I were discussing whether we should try to push one more on today, but think we agreed for a variety of reasons that we don't want to do that.

THE COURT: How long do you anticipate this next witness will be?

MR. YALOWITZ: 45 minutes to an hour.

THE COURT: You'll have an hour and 45 minutes. You can use it as you will. If you with want to put on a witness and finish within the hour, we can do it.

MR. YALOWITZ: I'm sure we would like to get done. The issue is, as you may have noticed, my colleague, Phil Horton, has been absent. He has been quite ill. So we have had to scramble to replace the person who is dealing with this witness. And there were some documents that we had to go through to use with the witness. There was one that we planned to use that we didn't provide to the defendants until earlier today, and so I just felt as a courtesy to them we should hold off. And they have gotten it by email, but I don't think they have had a chance to digest it.

THE COURT: If you're ready, don't do them any favors, put your guy on, but if they're not ready --

F25TSOK5

1 MR. ROCHON: If we could get a copy of the thing they  
2 want to put into evidence. We had to read it on a handheld,  
3 and it's hard to read, and we can argue whether it will come in  
4 or not. It's not a long argument, you can look at it and  
5 decide.

6 THE COURT: Can we look at it now? Forward it to us,  
7 we can print it now.

8 MR. YALOWITZ: We have a printer.

9 MR. ROCHON: May I make a suggestion?

10 THE COURT: Yes, sir.

11 MR. ROCHON: Maybe we could put on the next witness  
12 and then address this issue after that.

13 MR. YALOWITZ: Yeah, that's fine.

14 THE COURT: If I could get the document in your hand  
15 and my hand and look at it while we're doing that, because I  
16 think if we can do the witness it's better for the witness and  
17 better for us.

18 MR. ROCHON: And think the jury may have looked  
19 forward to getting out early on Friday.

20 THE COURT: Better to have fewer witnesses tomorrow if  
21 we could use two hours today.

22 But why don't we do this, why don't we continue with  
23 the next witness, get the document and just give us all a copy  
24 of the document, and then after you finish that witness we can  
25 see whether or not it makes sense to go into the next --

F25TSOK5

1 MR. ROCHON: If someone hands it to us discretely, we  
2 can look at it.

3 THE COURT: Me, too.

4 MR. YALOWITZ: And other thing is we talked about the  
5 unsigned sort of memory of David Gritz, and I did confirm that  
6 that was written by his father between the time of David's  
7 death and between the time of the father's death. I'm trying  
8 to remember number of it.

9 THE COURT: You're talking about 1137?

10 MR. YALOWITZ: Is it the one with the little quotes.

11 THE COURT: Uninterrupted journey.

12 MR. YALOWITZ: That's the one. So that was written by  
13 the father of David.

14 THE COURT: And what do you want to do with it?

15 MR. YALOWITZ: I want to offer it in evidence to  
16 reflect his state of mind about David.

17 THE COURT: Is he going to testify tomorrow?

18 MR. YALOWITZ: Tomorrow.

19 THE COURT: He's not the one we're talking about  
20 putting on today.

21 MR. YALOWITZ: Right, he would be tomorrow.

22 THE COURT: Let us both look at it further and we can  
23 resolve that before we adjourn for the day.

24 MR. YALOWITZ: I'm going to hand the Court 1271, which  
25 is the poem.

F25TSOK5

1 THE COURT: Is that what is at issue?

2 MR. ROCHON: For today this is potentially a today  
3 document for last witness of the day.

4 THE COURT: What is this supposed to be?

5 MR. YALOWITZ: This is a poem that Larry Carter wrote  
6 to his daughter Diane in the days following her death.

7 THE COURT: Can you read that out loud for us? It's  
8 very short.

9 MR. YALOWITZ: Now you know the answers to all the  
10 questions asked, now you know the reasons for all our  
11 essentially tasks, all of life. His handwriting is a little  
12 tough for me to read, but he can read it.

13 THE COURT: I'm trying figure out what it says.

14 MR. YALOWITZ: All of life's mysteries, you know the  
15 answers to all, I know and I struggle forever missing you, now  
16 you know the answers, you know I love you. Daddy, August 2003.

17 THE COURT: I don't have any strong feelings one way  
18 or the other about this.

19 MR. ROCHON: I believe this is after the incident.

20 MR. YALOWITZ: Two years.

21 THE COURT: I honestly don't have a problem unless you  
22 can articulate something.

23 MR. ROCHON: Your Honor, let's let him read it.

24 THE COURT: Okay. So if we do this other witness, if  
25 we can get to that witness by 4 o'clock, I suggest we do it and



F25TSOK5

1 try it finish.

2 MR. YALOWITZ: Let me just tell him so that he's  
3 mentally prepared. He's here and I think he may --

4 MR. ROCHON: He's in the room.

5 MR. YALOWITZ: May I -- I also want to consult with  
6 Ms. Machnes.

7 THE COURT: Go ahead, and then I would like to do two  
8 witnesses if we can.

9 MR. YALOWITZ: Okay. May I just consult with the  
10 client for just a moment?

11 THE COURT: Sure.

12 (Pause)

13 MS. PILDIS: Your Honor, if you don't mind, we could  
14 move forward without them.

15 THE COURT: I appreciate that, if we could use our  
16 time.

17 (Continued on next page)

F25TSOK5

Miller - direct

(Jury present).

MS. PILDIS: Plaintiffs call Dianne Miller.

DIANNE MILLER,

called as a witness by the Plaintiffs,

having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. PILDIS:

Q. Good afternoon, Dianne.

A. Hi, Sarah.

Q. Where are you from?

A. I'm from Boston, Massachusetts.

Q. Are you a citizen of the United States of America?

A. I am.

Q. Where do you live now?

A. I live in Lakeville, Massachusetts, which is south of Boston about an hour away.

Q. Can you tell me about your family growing up?

A. I feel like it was a typical American middle class childhood. There were three of us in the family. I was the youngest. Janice was four years older, and Bobby, my brother, was six years older. We were involved in lots of different activities. The one that I remember from my childhood the most is being involved in Sacred Heart band, where Bobby and Janice played instruments, I was in the color guard. We did competitions together, we did parades. My family was very

F25TSOK5

Miller - direct

1 involved in that. And beyond that, we were involved in church  
2 and just had lots of friends in our neighborhood, and we just  
3 kind of played and grew up in an average household.

4 Q. As kids what was your relationship like with your sister?

5 A. She was my older sister. She was four years older. We  
6 shared a bedroom. For the first 12 or 13 years of our lives we  
7 slept in the same bed. The first memory I have of her is  
8 actually sleeping with her. Someone asked me that question  
9 after she died, what's your first memory, and it went back to  
10 sleeping with her in bed.

11 Our relationship as kids, we played together. We  
12 weren't super close since we were four years apart. She had  
13 her group of friends and I had my peer group. We were part of  
14 a close family and went on vacation together, and it was a  
15 positive family relationship.

16 Q. Was that the same through high school?

17 A. Yes, I would say in high school we became a little bit  
18 closer. Our high school -- we went to the same one, it was six  
19 years, 7th through 12th grade. And when I was in 7th and 8th  
20 grade my sister was just graduating -- or 11th and 12th, junior  
21 and senior year, we were both involved in music programs. And  
22 she was my big sister that I could say hi to in the hallway.  
23 And I was never the little sister that she ignored. She would  
24 come up and give me a hug. The different events, I remember  
25 concerts in particular she would come over and watch and give

F25TSOK5

Miller - direct

1 me a hug afterwards. And just different pictures I remember  
2 where she was always there with me.

3 Q. What high school did you go to?

4 A. We went to Boston Latin School.

5 Q. Is that a difficult school to get into?

6 A. You have to take an exam to get into it. I think way back  
7 when it's not as challenging as it is now, but yeah, to some  
8 extent it was difficult to get into.

9 Q. Did Janice go to college?

10 A. She did. At first she went to UMass Amherst, and she  
11 stayed there for about a year and then she --

12 Q. What happened at the end of the year?

13 A. Well, she had a boyfriend back home, and she realized that  
14 she missed him tremendously. And she wanted to live at home  
15 and be closer to him, and so she transferred and went to UMass  
16 Boston and she commuted.

17 Q. Did she graduate from college?

18 A. She took some time off, but she did eventually graduate in  
19 1991, the same year that I graduated college.

20 Q. What was your relationship like in the years after you  
21 graduated college when you were more adults?

22 A. We definitely became much closer. We became really best  
23 friends to each other. We did different kinds of like adult  
24 things together. We would have dinner together. I would go  
25 over to her apartment in Somerville and we would hang out

F25TSOK5

Miller - direct

1 there, and we would have dinner at a local restaurant. We had  
2 season tickets to the Boston Ballet, we did that a couple of  
3 times a year.

4 She was always very supportive of me in whatever I  
5 did, and likewise. She decided to -- after graduating in 1991,  
6 she decided to pursue her masters, and that required her to go  
7 out to Denver. And my family has never had anyone live that  
8 far away for a couple of years. I was able to visit her at  
9 Thanksgiving the first year that she was there, and it was just  
10 the two of us and a couple of her friends that she met out  
11 there. And we had our own little roast chicken dinner. Her  
12 oven didn't work so well, so it kind of took eight hours to  
13 cook, and I don't think that we ever even ate the chicken, but  
14 we hung out together.

15 And the April before she was killed we went down to  
16 Key West together. It was our first like adult trip away. And  
17 we had such a fun time, it was like a four-day weekend. But we  
18 just had a great time together, we did parasailing, we did  
19 snorkeling, just went to the beach and had a relaxing, fun  
20 time. And she had lots of stories. We vowed we wanted to do  
21 something like that every year.

22 Q. When your sister was studying for her graduate degree, did  
23 she have the opportunity to live abroad?

24 A. She did. And she lived in Jerusalem for a year. It was  
25 part of the Rothberg International School, part of Hebrew

F25TSOK5

Miller - direct

1 University.

2 Q. Did she enjoy that?

3 A. She loved it. She felt like she had finally found her  
4 niche in the world. She just was really happy there. She was  
5 learning more about Judaism. She was learning about the  
6 culture. She lived on a kibbutz. She worked in a I think a  
7 screw factory. Everyone on the kibbutz is required to do some  
8 kind of work there. That was her position.

9 And she went on hikes in the desert and learned as  
10 much as she could about the country and its people. She really  
11 felt at home there. And at the end of that time there, I was  
12 able to go and visit her. My mother, myself and a cousin, we  
13 went on a tour together. We met her and we went -- we drove,  
14 we were on a bus and went all around the country. It was just  
15 awesome to see my sister like this her glory. She just felt so  
16 comfortable there. She loved it. She was a really happy  
17 person and she was kind of at peace with herself, like she  
18 found where she needed to be and what she needed to be doing.

19 Q. What did she do when she returned from Israel?

20 A. She worked at Combined Jewish Philanthropies in Boston. I  
21 don't know exactly what she did there, but she was there for a  
22 couple of years.

23 Q. And after that, where did she work?

24 A. I think it was at that point that she got her job with the  
25 Rothberg Institute in New York. She loved her experience of

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Miller - direct

1 living in Jerusalem so much that she got a job in that field,  
2 and she was able to be the assistant and director for the study  
3 abroad program for the Hebrew University program, and she would  
4 be responsible for bringing students overseas for their study  
5 abroad program.

6 Q. As part of that job, did she travel to Israel frequently?

7 A. A couple of times a year, yes.

8 Q. Did you visit her in New York?

9 A. I did, many times. She moved to New York just a couple of  
10 months before my first husband Brian died. And she -- going to  
11 New York and visiting with her was my little escape from  
12 reality, and I did visit her several times. I just kind of did  
13 what she did. And he she was leaving a kosher life. She was  
14 going to synagogue several times like over the weekend. I went  
15 to synagogue with her. I experienced her living a Jewish life  
16 in Brooklyn, New York.

17 And I got to do some sightseeing also, seeing New York  
18 and kind of walk around and get used to the city. I understood  
19 more why Janice loved the city so much, there's so much  
20 activity, the people are just amazing, and lots of positive  
21 energy there, and she could live her Jewish life in Brooklyn.  
22 And she loved what she did for work, so she was in a really  
23 happy place.

24 Q. Did you have fun on these trips?

25 A. Most definitely.

F25TSOK5

Miller - direct

1 Q. You mentioned that your first husband died during that  
2 period of time. What happened?

3 A. He had a drinking problem, and at the same time he had a  
4 weak liver. I didn't know the extent of either of those  
5 situations until it was too late. He was drinking unbeknownst  
6 to me. I knew he drank somewhat, but the combination of the  
7 alcohol and the weak liver, he died from complications from  
8 sclerosis of the liver at age 32. I was 30 at the time.

9 Q. What did your sister do to help support you through such a  
10 difficult period in your life?

11 A. She was absolutely amazing. Like I said, she just moved to  
12 New York a couple weeks, so she was in New York at the end of  
13 August and then the beginning of October when things were going  
14 downhill very quickly for Brian. And the day -- the last day  
15 that he was alive I was in touch with her several times and  
16 kind of gave her updates. And when we realized he wasn't going  
17 to be living through the night, we told her, and she just  
18 packed -- went quickly back to her apartment, took a few things  
19 and took the bus and met us at the hospital.

20 She was by my side through that whole evening and just  
21 hugged me, held my hand, talked to Brian, just like I was  
22 talking to him, even though he couldn't -- he wasn't awake.  
23 And she just was very, very supportive with everything. And  
24 she was holding my hands as he died, and she never left my side  
25 that whole weekend, that entire weekend after things happened.



F25TSOK5

Miller - direct

1 We went to my brother's house early in the morning, like three  
2 in the morning or something, and Janice and I got in the car  
3 and went with him. And I will vividly remember just being in  
4 the guest room sharing a bed again and having her just like  
5 hold my hand. I couldn't imagine doing that with anyone else  
6 but my best friend.

7 Q. When did your mother die?

8 A. November of 2000, so it was a year after Brian died.

9 Q. What was Janice's role in your family after your mother  
10 passed?

11 A. I didn't quite realize it until after she wasn't there, but  
12 living in New York, when she came home, everyone rallied and we  
13 all got together. She made a point of coming home, and she  
14 stayed in my dad's house, or sometimes she stayed at my house,  
15 but we always got together and hung out. And we saw my brother  
16 and his new baby, Patrick. She was like, I realized  
17 afterwards, kind of a cheerleader for keeping everyone  
18 together. She just had like a very -- it's a funny  
19 personality, but like she brought everyone joy and brought  
20 everyone together and kept everyone connected.

21 Q. I want you to talk about the day of the attack. Can you  
22 tell me how the day that your sister was murdered started,  
23 beginning first thing in the morning?

24 A. I had a busy day at work and I was up early. I had a phone  
25 call from my dad around seven in the morning, and he told me

F25TSOK5

Miller - direct

1 that there was a bombing in the cafeteria at Hebrew U. And he  
2 tried to call Janice on the cell phone that she rented and he  
3 couldn't get in touch with her. And I thought there's no way  
4 that she's involved, like she's fine, just the phone lines are  
5 all busy and everyone is trying to call each other, and I'm  
6 like she's fine.

7 So I said I would try to call the number, and I  
8 proceeded with my dad, I went to work, but on the way to work,  
9 just a little short while after my dad called, I called Amy  
10 Sergeant, who was Janice's boss at the time at the Rothberg  
11 School, left a message for her just seeing what she knew. And  
12 we were just starting to try to figure out what was going on.

13 I heard back from Amy, and initially they were just  
14 trying to find her. And a little while later I got another  
15 phone call, and they thought that she was in surgery. And it  
16 was around that time that we started to think okay, well, let's  
17 have one of us go over there and help her out and see what is  
18 going on. But none of us had an active passport, so it was a  
19 mad scramble to try to get into Boston and do a rush passport  
20 kind of thing, get a flight.

21 So my mind was occupied. I left work at that point,  
22 went home and changed and went up to my dad's house. At that  
23 point I think it was just my brother, his wife, and my dad and  
24 I. There were a series of phone calls throughout the  
25 afternoon, and it was arranging anything from -- Amy called and

F25TSOK5

Miller - direct

1 said I hate to ask this of you, but is there a way for you to  
2 get a copy of her dental records to send over there. And she  
3 said well, coincidentally we have the same dentist, if you  
4 don't mind I will go ahead and make that phone call. Of course  
5 I said yes, I don't know who her dentist is. So Amy did that  
6 for us.

7 And this was around probably three or four in the  
8 afternoon, and there was a gap where can he didn't hear  
9 anything. We were watching the news and we were online trying  
10 to see if we could find a picture of her. I was still trying  
11 to call the cell phone. Nothing. And around 5 o'clock I'm  
12 like I can't take this any more, we had been in touch with  
13 someone from the American embassy, Ingrid had called earlier in  
14 the day and I called her. It's two in the morning over there,  
15 we need to have resolution, see what is going on.

16 When I called Ingrid, she had confirmed that Janice  
17 had been killed and they were able to ID her through a medical  
18 alert bracelet. She was allergic to bees. So they didn't need  
19 the dental records, but it was around 5 o'clock that day when  
20 we found out.

21 Q. What did you do at that point?

22 A. I remember being numb. Crying. My dad just broke down,  
23 sat in a chair and covered his hands over his eyes. I mean I  
24 was kind on auto pilot at the same time. My aunt and a few  
25 cousins had just arrived. And it was just really disbelief

F25TSOK5

Miller - direct

1 that a family from Boston was involved in this international  
2 terrorism thing. And it was just crazy with the phone ringing  
3 off the hook, and I was kind of, like I said, on auto pilot and  
4 disbelief still.

5 Q. What happened next?

6 A. That was on a Wednesday when that happened. We had people  
7 visiting and neighbors were coming over and giving us food and  
8 drinks. And Thursday was involving trying to make arrangements  
9 to have Janice come home. And we were just kind of -- I think  
10 at that point I went home, got some clothes, my brother did the  
11 same thing. Came back, I brought my cat, I knew I would be  
12 away a couple of days, and we were kind of hanging out, kind of  
13 waiting to see when Janice would be coming home. And I  
14 remember sleeping on my dad's couch, or trying to sleep, and  
15 Amy called in the middle of the night and she said something  
16 about the body was going to be coming home to Boston on Friday  
17 and I needed to give her the name of the funeral home for  
18 Janice to go to. And we had just done that that day, so just  
19 communicated again. So everything was kind of on hold at that  
20 point.

21 Q. What did you have to do next?

22 A. Wait for Janice to come home.

23 Q. And how did that happen?

24 A. She arrived in Boston. I think she had flown El Al to New  
25 York and then on a flight to Boston, and a friend accompanied

F25TSOK5

Miller - direct

1 her on the flight. My dad and my brother and I drove into  
2 Boston. We were escorted. The funeral home hearse was in  
3 front of us. And we went over to an area at the airport, like  
4 the cargo area, and we collected my sister. She was in just a  
5 brown box with I think an Israeli flag on it or a wreath or  
6 something on it decorating it. After that we went to the  
7 funeral home.

8 Q. What happened at the funeral home?

9 A. Actually I think the funeral home was on Saturday. They  
10 needed time to kind of clean her up, if you will, so we could  
11 view her.

12 Q. Did you view her?

13 A. I did. My father and my brother and I did.

14 Q. What was that like?

15 A. Horrific. She didn't look the usual way. I mean she was  
16 dead. Her blonde blood hair was dirty, it was -- she was under  
17 a sheet. She was still wearing her clothes. We were not able  
18 to see where her wound was, that was still covered. They  
19 didn't want us to see that. And the funeral home director told  
20 us about the condition of her body underneath the sheets. And  
21 she still had scrapes and wounds. I remember seeing something  
22 on her face, it was like kind of a gash, like a scrape across  
23 her cheek, and her throat was covered up so we only saw her  
24 chin up. It was horrible. Seeing anybody like that, but your  
25 sister and your best friend, it was a sad dose of reality.

F25TSOK5

Miller - direct

1 Q. Can you tell us about the funeral?

2 A. Well, we had a memorial and then a private burial. Do you  
3 want me to talk about the memorial?

4 Q. Sure.

5 A. That was at the synagogue in West Roxbury, the area of the  
6 neighborhood that we lived in. And it's the synagogue where my  
7 sister made her conversion to Judaism. It's the synagogue  
8 where my grandmother made her conversion to Judaism. And there  
9 were 400 plus people there. There were people from all facets  
10 of her life, high school, college, New York friends, Jewish  
11 friends, family friends.

12 It was amazing, the outpouring of people who took time  
13 out of their day on a beautiful August sunny day to come pay  
14 their respects. It was amazing how many people got up and  
15 shared some stories about Janice and the kind of person is that  
16 she was. I mean I was able to talk about my sister and explain  
17 to people who didn't know her how beautiful she was. It was  
18 cathartic in that sense to honor her and talk about her. But  
19 it was all a whirlwind. My dad was a mess. My brother was  
20 holding it together. He can be kind of stoic sometimes, but he  
21 was really, really upset. It was pretty horrific.

22 Q. What did you share about your sister on that day, if you  
23 remember?

24 A. It was about five pages.

25 Q. I won't ask you to repeat it.

F25TSOK5

Miller - direct

1 A. Too much information. It was anything from sharing of my  
2 first memory together, sleeping together, her quest for finding  
3 her identity in the world, her passion for Judaism, her kind of  
4 family connection to Judaism, her love of living in Israel, and  
5 how she ended up being where she was. I was talking about our  
6 friendship and our good times together, our family times. It  
7 was just an honor to be able to represent her in that way.

8 Q. What has life been like for you since that day?

9 A. It was a huge sense of loss. Even though I have  
10 experienced loss from my first husband and my mother and my  
11 uncle, but I would have to say I have learned that there's  
12 different levels of grief, different kinds of grief. And  
13 losing my sister in the big scheme of life has been the worst  
14 thing ever. She was my constant support. She was my shoulder  
15 when I needed to cry. She was my cheerleader when things were  
16 going great.

17 I feel like our family has not stayed as connected and  
18 as tight since she passed. She kept us together. And family  
19 life kind of sucks sometimes. I don't have a mother, I don't  
20 have my sister, I'm by myself as a female in the family. We've  
21 all kind of moved on with our life. I've married again and  
22 have children, and so does my brother, we're all busy but  
23 there's a huge void with -- I'm teaching them not knowing, not  
24 able to know her nieces and nephews.

25 It's hard when I'm in social situations and I know

F25TSOK5

Miller - direct

1 that there's -- I'm with my sister-in-law or cousins and they  
2 have all their sisters and they're all talking together at  
3 holidays or a regular barbecue on a Saturday in the summertime  
4 and they're all chitchatting, and I'm standing back looking at  
5 them and I don't have that any more. I'm so envious. I'm  
6 hurt. And they don't get it. Like they don't put themselves,  
7 I don't think, in my shoes. And there's no awareness, I think,  
8 for the average person.

9 So it's been quite -- some days are quite miserable,  
10 and it's gotten better over time, but it will never go away.  
11 She's with me every day. She will never be there again to see  
12 me, to see my family and give me a hug and give me support.

13 Q. How many children do you have?

14 A. I have two, I have twins, a boy and a girl.

15 Q. How old are they?

16 A. They're nine.

17 Q. What are their names?

18 A. My daughter is Jessica and my son is Aiden, and Jessica is  
19 named after Janice. There's a Jewish tradition that a child  
20 could be named after someone who is deceased. And luckily my  
21 husband loved the name Jessica, so we honored Janice in that  
22 way.

23 Q. Can I ask you to summarize how your family has been injured  
24 by your sister's murder, starting with your father.

25 A. My dad has become a different person since my sister died.



F25TSOK5

Miller - direct

1 You heard about his alcoholism. He really has lost touch with  
2 his friends. He definitely still has I'll say flashbacks. We  
3 all think back to the day and the days after. We all --  
4 there's just a tremendous amount of sadness that he still has.  
5 He has good days and some not so good days still.

6 Q. Does he have trouble sleeping?

7 A. He does, yes. Like I said, he's definitely kind of  
8 withdrawn from his friends from years before, and he really --  
9 I mean even though he's gone through detox and he doesn't  
10 drink, I think he's still -- he's still very much overwhelmed  
11 by Janice's loss.

12 Q. Would you describe him as depressed?

13 A. Sometimes, yes, especially around the holidays, her death  
14 anniversary, her birthday, which are a week apart.

15 MS. PILDIS: Ms. Romeo, would you put the summary up  
16 on the screen.

17 Q. Is that an accurate summary of what you have been  
18 describing?

19 A. Yes.

20 Q. Could you describe how Bobby has been -- what injuries  
21 Bobby has since your sister was murdered?

22 A. Very similar in terms of having a hard time remembering,  
23 the pain like of the events, the day that we found out she was  
24 killed. The holidays, you know, just the flashbacks to what  
25 happened. He's definitely sad and depressed at different times

F25TSOK5

Miller - direct

1 of the year around, the times that I mentioned, holidays and  
2 birthdays, and definitely some anger because as the big brother  
3 he couldn't help his sister in that situation. He still has  
4 some trouble sleeping at times.

5 Q. Is that an accurate summary on the screen of what you  
6 described as his injuries?

7 A. Yes.

8 Q. How would you describe how you have been injured by your  
9 sister's murder?

10 A. Tremendous amount of sadness, loneliness. I still have  
11 trouble sleeping sometimes, anger that she's not around to meet  
12 my family. I get depressed at times. That's pretty evident.  
13 And then I think remembering back to everything that has  
14 happened. Those would be some of the worst.

15 Q. Is that an accurate summary of the injuries you have?

16 A. Yes. The one thing that I would just talk a little bit  
17 more about is the social life and avoidance. There's still  
18 times when I have to meet people and they ask about my family.  
19 And I honestly say I have three siblings, and depending upon  
20 the person, and how much I want to get into it, I will tell  
21 them what happened with my sister. But if I don't have to --  
22 after she died I didn't want to get into those kinds of social  
23 situations where I would have to explain that. It's hard to  
24 put yourself out there.

25 MS. PILDIS: Plaintiffs would like to submit the

F25TSOK5

Miller - direct

1 slides, the summaries, into evidence as Exhibit 1272.

2 MR. ROCHON: No objection, your Honor.

3 THE COURT: They will be admitted into evidence.

4 (Plaintiff's Exhibit 1272 received in evidence)

5 Q. Dianne, are you wearing anything special today?

6 A. I am. I am wearing earrings and a ring that my sister wore  
7 when she was killed. And we're able to get those back a couple  
8 weeks after the event. And I'm also wearing a necklace that  
9 she bought when she was traveling around to the Middle East,  
10 and she bought it in Jordan. When she came back from Israel,  
11 she gave it to my mother, and it was her present. I didn't get  
12 a present like that, not directly. And when my mom died the  
13 necklace went back to Janice, and so I have it after that.

14 Q. You've testified that you have children and you have  
15 remarried.

16 A. Yes.

17 Q. How are holidays for you now?

18 A. Not the same. Never the same. And it's just my family  
19 unit has changed dramatically with Janice's death. My brother  
20 a lot of times does things with his family. His wife's family  
21 is really large and he has just been enveloped into that  
22 family.

23 My dad, he does his own thing quite often. And me and  
24 my husband Gary and our two kids, we're kind of an island  
25 sometimes. If I reach out and the stars are aligned we can get

F25TSOK5

Miller - direct

1 together, like we had Christmas together, my dad and I and my  
2 family. And it was a great day. But it's not the same. I'm  
3 trying to enjoy the moments that we have, because I realize  
4 that they're precious, they can be taken away at any time. But  
5 holidays are pretty horrible, and especially when I'm with  
6 extended family who -- they get it, but it's been a lot of time  
7 and they don't have, I think, that same kind of empathy that  
8 they once did.

9 Q. What do you miss the most about your sister?

10 A. Her laugh. She had a raucous, hearty laugh. She had a  
11 beautiful smile, quick wit, very sarcastic. Her hugs. She was  
12 just silly, goofy, and she was just kind of my mother figure  
13 when my mom died.

14 Q. Is it harder because it was a terror attack?

15 A. Most definitely. It wasn't an illness, it wasn't a car  
16 accident. What gives someone else the right to take her life?  
17 We could say she's in the wrong place at the wrong time. That  
18 makes it too easy. No one has a right to take another person's  
19 life.

20 Q. You described going to family events and seeing your  
21 cousins and other people chitchatting. What can you say about  
22 those events?

23 A. It's painful. It's like I'm standing -- I'm in a room  
24 talking to people, but I can't of let myself -- when I remove  
25 myself and see what is going on in the room, it just hits me

F25TSOK5

Miller - direct

1 that I don't have that same kind of female sisterly connection  
2 that my cousins do, and it's really painful.

3 There is something that I saw on Facebook last night  
4 where someone -- my sister-in-law was forwarding something to  
5 her sister: If you love your sister, share this. And I was  
6 just like oh, my God, I don't have any sister anymore. I could  
7 share it, and I did share it, I said: Thinking of you, Janice,  
8 in heaven, you'll always be with me.

9 But those things people don't think about. Loss. If  
10 you've lost a parent or lost a brother or lost a sister, like  
11 little innocuous things some days just really, really painful.

12 Q. How often do you think about Janice?

13 A. Every day. I'm always reminded of her, whether it's -- I  
14 have jewelry from her. I still have some of her clothes. I  
15 have some of her things in my house, little knickknacks,  
16 pictures all over the place.

17 And my kids remind me of her all the time, the fact  
18 that they have been cheated of having a loving aunt in their  
19 family. My kids. I think it was my son Aiden, when he was  
20 young, he was -- I just feel he said something about how he  
21 thought he saw someone in the room, like he felt there was a  
22 presence there. And kids have an amazing intuitive sense. And  
23 I'm like maybe it's Auntie Janie, maybe she's here watching  
24 over you, maybe it's Nana Nancy, my mom.

25 And my kids still -- even my daughter gets very upset

F25TSOK5

Miller - direct

1 that she never got to meet her aunt. She's cried before. Kids  
2 are very sensitive and take things in a very different way.

3 Q. What do you share with your children about her?

4 A. We try and share some funny stories and talk about her  
5 little idiosyncrasies, whether it's anything from -- well,  
6 Janice had long fingernails, and when we were young and had a  
7 fight, she has scratched me quite often. I would kick her, and  
8 she scratched me. And my mom -- I would always tell on her,  
9 and my mom would cut her nails back. And my son would say how  
10 big were Auntie Janie's nails? Were they this big? No.

11 So funny stories we try to share. And we go to the  
12 cemetery. Janice and my mom were buried in the same plot, and  
13 we just have our little ritual, and when we say goodbye we  
14 kiss -- Jessica kisses the J in Janice's name, Aiden kisses the  
15 A in her name, and that's our little way of saying goodbye to  
16 her.

17 Q. How are you coping with her death today?

18 A. I manage. I mean after Brian died I attended a support  
19 group, a widow support group, and it was nine months long,  
20 three different sessions. And I feel like that gave me the  
21 knowledge of grief and not being sad as normal, and you have to  
22 just let yourself feel the pain, you have to feel the pain and  
23 get through it. So I feel like I have a good foundation on  
24 grief and how to just let myself feel what I'm feeling at the  
25 moment.

F25TSOK5

Miller - direct

1           There are some days where I'm okay, and there's other  
2       days where I hear a song and I just -- it makes me think of it  
3       Janice and I'm crying uncontrollably driving. That's when it  
4       kind of hits me, when I'm alone, and that's when I really let  
5       myself go. I don't cry at home or in kind of other social  
6       situations. So it's something that I deal with daily, and I  
7       manage it the best that I can, but it stinks. Life will never  
8       be the same

9           MS. PILDIS: I have no further questions.

10          MR. ROCHON: No questions, your Honor, thank you.

11          THE COURT: Thank you, you may step down.

12          Do you want it put on your next witness?

13          MR. YALOWITZ: Why don't we pause in place and I will  
14       find out if we should continue or adjourn for the day.

15          THE COURT: Okay.

16          MR. YALOWITZ: Thank you, your Honor.

17          (Pause)

18          MR. YALOWITZ: Plaintiff's next witness is Larry  
19       Carter.

20       LARRY CARTER,

21           called as a witness by the Plaintiffs,

22           having been duly sworn, testified as follows:

23       DIRECT EXAMINATION

24       BY MS. MACHNES:

25       Q. Good afternoon, Mr. Carter.

F25TSOK5

Carter - direct

1 A. Good afternoon.

2 Q. I'm going to call you Larry if that's okay.

3 A. Sure.

4 Q. Where are you from?

5 A. Greensboro, North Carolina.

6 Q. Is that where you grew up?

7 A. No.

8 Q. Where did you grow up?

9 A. I grew up on a small dairy farm about two miles east of  
10 Oxford, Alabama. It's about halfway between Birmingham and  
11 Atlanta, Georgia.

12 Q. Are you a citizen of the United States of America?

13 A. Yes, I am.

14 Q. Can you briefly tell us a little bit about your family?

15 A. Well, how extended do you want me to go? I have two  
16 daughters, Diane, who was murdered in the attack on the  
17 cafeteria, and an older daughter Shaun. I have a  
18 granddaughter. My daughter Shaun is married, and she and her  
19 husband live in Chesapeake, Virginia. My granddaughter is a  
20 sophomore at William & Mary College. I have two stepsons and a  
21 grandson, and of course my wife.

22 Q. What's your wife's name?

23 A. Nancy.

24 Q. The attack that you mentioned on the cafeteria, that was  
25 July 31st, 2002?



F25TSOK5

Carter - direct

1 A. That's correct.

2 Q. Could you just tell us a little bit about what Diane was  
3 like as a child?

4 A. She was some kid. She was so strong willed, so determined,  
5 so inquisitive. We were at the beach one time and she was  
6 three years old, and we were a quarter mile from the cottage  
7 and she decided she didn't want to do that any more. And she  
8 turned around, starts walking. We called her and tried to stop  
9 her. She never looked back and kept going until she got to the  
10 cottage. Three years old. I thought this kid, this kid is  
11 going to be something, and she was, I tell you.

12 The older daughter, they were as different as daylight  
13 and dark. You could walk out and say it's a pretty blue sky,  
14 and the older girl is like yeah, so what or something. And  
15 Diane would be: Why? Why what? Why is it blue? I don't  
16 know. So the best investment I ever made was buying a  
17 Britannica encyclopedia, because at that point there wasn't the  
18 internet or Google. So we would hit the books and find the  
19 answers to these questions.

20 And later on she got interested in space and the  
21 stars, and we would go out at night, particularly in the  
22 wintertime when the sky -- there's no smog and go out in the  
23 country and lay down. And I had a National Geographic star  
24 chart, and we would pick out the constellations. And that was  
25 the kind of kid that she was, but very determined in anything

F25TSOK5

Carter - direct

1 that she set out to do. And if you tried to convince her  
2 otherwise, you would have to move heaven and earth to convince  
3 her that she was wrong. She wouldn't just take anybody's  
4 opinion. She was quite a kid.

5 Q. What was the age difference between Diane and her older  
6 sister Shaun.

7 A. About two and a half years. I think 30 months, actually.

8 Q. What was Diane and Shaun's relationship like?

9 A. Well, you know, having a sister two and a half years older,  
10 she starts out -- to Diane she's too bossy, and to Shaun she's  
11 a little aggravating sister. It was nothing ever terrible, but  
12 it's the kind of conflicts that kids have.

13 We lived on a cul-de-sac, and I think it was like  
14 twelve kids on that cul-de-sac, and about half of them were  
15 Diane's age and about half of them were Shaun's age. And it  
16 was about evenly divided between girls and boys. And Diane and  
17 the little girl next door, they were absolutely inseparable.  
18 They were together all the time. You didn't know who would be  
19 there for supper and which one wasn't. And it was just a nice  
20 neighborhood, nice kids. And as far as sibling rivalry, it was  
21 the things of Daddy, she's bothering me, or she's in my space,  
22 or that kind of thing, but nothing serious, and it never was.  
23 Even as teenagers they would have their arguments and  
24 disagreements, but never anything that was malicious.

25 Q. How would you describe your relationship with both of your

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Carter - direct

1 daughters?

2 A. Well, like I say, they were as different as daylight and  
3 dark. And the older daughter, to me, she was more difficult.  
4 She was the one that didn't like school and didn't want to  
5 clean her room, and she was the screamer and the door slammer.

6 Diane's personality was really more like mine. She  
7 was more easy going, although, like I say, could be very  
8 stubborn, which of course I am not. But she was a good  
9 student, and I never had to ask her to study. They all had  
10 their chores to do, and if you asked Diane to do her chores,  
11 she would do her chores without any complaints.

12 So they were two totally different kids. And in fact  
13 as they got older I would tease them, and I teased them a lot.  
14 We all teased a lot. And I would call the older daughter my  
15 yuppie because she was like Daddy, could I have the latest pair  
16 of shoes or that blouse or whatever, and Diane I called my  
17 hippie because she bought her clothes at Good Will. So that's  
18 just the kind of kids they were.

19 (Continued on next page)

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F258SOK6

Carter - direct

1 BY MR. MACHNES:

2 Q. Was there a time that you played a game with your daughters  
3 about what kind of animal each of you would be?

4 A. I don't know how that came up, but at one point it was  
5 like, I guess they saw something on TV, I don't know. And  
6 there wasn't much TV. I think we could get three channels and  
7 that was all. It was something about, if you could be an  
8 animal what would you be, and I don't remember what each of  
9 them said. Then they came to me. Well, dad, what kind of  
10 animal would you be? Well, it's very obvious. I would be a  
11 bear. A bear? Yeah, a bear. Why? I said, Because you're my  
12 cubs and I will always look after you.

13 I even called the Chicago Cubs office and ordered cub  
14 decals, had the big C and the UBS, and I gave each of them one,  
15 which they thought was funny, but they also thought dad was a  
16 real dork for doing something like that. Those were the kind  
17 of things we did.

18 Q. Could you tell us about some memories you have with Diane  
19 and Shaun in their teenage years?

20 A. Well, as teenagers, you know, of course I taught them how  
21 to ride a bicycle, and later on how to drive a car, which there  
22 was no driver's ed at school at that point, which I will relate  
23 something to you there in a minute.

24 Like I say, at that time there was no Internet or  
25 anything like that. So I guess every family played the board

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Carter - direct

1 games and you would go ice skating and stuff like that, which  
2 some of those things they delighted in, because if they can get  
3 dad on the ice growing up from Alabama, they knew I was going  
4 to be a disaster because I had never been in a pair of ice  
5 skates in my life and they thought that was hilarious.

6 One day before 16, like I say, I taught each of them  
7 how to drive, and we would go every Sunday. In North Carolina  
8 at that time, it was what was called the blue laws, and no  
9 store could open to sell anything until after church was out.  
10 So we would go to this big shopping mall and teach them how to  
11 drive the car. Well, Diane would always insist on going. She  
12 would be in the back seat. It was like she had driven cross  
13 country. She had all kinds of suggestions to aggravate her  
14 sister. And I finally had to step in to tell her to hush. Of  
15 course, when it came time for her to learn how to drive, it  
16 was, I know how to do this, this is a snap, which of course she  
17 couldn't, because I made them both learn on a straight shift so  
18 operating that clutch and gas pedal and brake was a little more  
19 difficult than she had anticipated.

20 The other thing that I had them do, at that time, and  
21 I don't know how it is now, when you turn 15 you can get a  
22 worker's permit. So I said, you have to get a job, you have to  
23 work. And Shaun got a job and she worked. And when Diane was  
24 15, I had her get her learner's permit, and she did. I mean,  
25 her work permit. She did. And I said, have you found a job

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1 yet? Well, no, not yet. That went on for a while. Finally,  
2 she just announced, I have decided that I am not going to work.

3 I said, OK, that's all right. You don't have to. I  
4 am a veterinarian. I am retired now. I did both large and  
5 small animals. I had a veterinary clinic. And every summer I  
6 would hire one or two high school kids to work. So I said, OK,  
7 you can work for me, and I will pay you minimum wage like  
8 everybody else. She said OK. What will I be doing, filing? I  
9 said no. You will be cleaning cages, emptying cat litter pans,  
10 scrubbing floors. It was only about a week or two that she got  
11 a job at Burger King. I really felt good because when you can  
12 outfox your headstrong 15-year-old daughter, you have  
13 accomplished something.

14 So I wouldn't let her forget that either, which she  
15 enjoyed too. She would come home and I would say, Diane, how's  
16 work? I hate this job, dad. I'm an unhappy teenager, and it's  
17 all your fault. So I said quit. But you will come to work  
18 with me. So we would tease each other like that.

19 So that was kind of how life was. She and I were  
20 really close. I would have to say she was my kid. I mean, she  
21 and I were always on the same wavelength. We could disagree  
22 about something without ever being disagreeable. We could  
23 argue, but it never got heated. There was never any screaming  
24 or hollering or anything like that. You go through the usual  
25 things with kids. But Diane and I did great. We really,

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Carter - direct

1 really had something special going. And sad to say, I did not  
2 have that with my older daughter. She was just a different  
3 personality, more high-strung, more excitable than Diane. I  
4 don't mean that to be critical. That's just the facts.

5 Q. Did Diane go to college?

6 A. Yes, she did. She went to Duke University. She graduated  
7 with a degree in anthropology. Then she went to University of  
8 North Carolina at Chapel Hill and got a master's in social  
9 service. Then later on I found, when she was in Israel, she  
10 was going back to get another degree, and that chain of events  
11 is actually what led to her death.

12 Q. We will get to that in a minute. First, I just want to go  
13 back to her education.

14 How was Diane with languages?

15 A. She really had a knack for language. She was fluent -- in  
16 high school she was fluent in French. She had an excellent  
17 French teacher. One summer, when she was at Duke, she went to  
18 Europe with her boyfriend, and she was able to get by in  
19 Italian and in German. Then later on she was actually fluent  
20 in Hebrew.

21 Q. What types of activities did Diane take part in while she  
22 was in college at North Carolina?

23 A. Well, when she was in high school, she was captain of her  
24 volleyball team. She really liked that. When she went to  
25 Duke -- and she was in various clubs in high school, chemistry

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1 club and that kind of thing, French club. When she went to  
2 Duke, one of her main extracurricular activities was a thing  
3 called free water. I don't know how it got that name. But it  
4 was a group of students and she became president of that. And  
5 they showed, I guess, mostly classic films, Casablanca, some of  
6 the low-budget films. They showed those in the student union.  
7 And she and her committee were in charge of putting that  
8 together.

9 Q. Did she do anything rebellious during those years?

10 A. Well, she never rebelled as a teenager. When she was in  
11 college, she came home one day and she said very proudly, dad,  
12 I have something to tell you. OK. She said, I marched in the  
13 demonstration in favor of the cafeteria workers of Duke  
14 University because they don't make a good enough salary. And  
15 just pretty defiant about it. I smiled and I said, Well,  
16 that's great. She says, You're OK with that? I said yeah.  
17 She said, Well, I didn't think you would be. I said, Diane,  
18 you know, I have always taught you to be your individual self,  
19 to do what you think is right. If you have that conviction,  
20 then that's what you should do.

21 So that was the biggest thing that ever came up as far  
22 as any kind of rebellious attitude.

23 Q. You mentioned that Diane was getting a graduate degree in  
24 social work?

25 A. Repeat, please.



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Carter - direct

1 Q. You mentioned that Diane was getting a graduate degree in  
2 social work?

3 A. Yes.

4 Q. What kind of work was she doing while she was getting that  
5 degree?

6 A. Well, it involved, I know, at least two days a week, and I  
7 don't know if it was more or not, but she was heavily involved  
8 in dealing with abused children, abused women, a lot of this  
9 abuse was rooted in alcoholism, drugs, and, quite frankly, she  
10 became very depressed dealing with this.

11 Q. Did you encourage her to get therapy?

12 A. Yes, I did. In fact, when she was a senior at Duke, she  
13 came to me and told me that she felt like she was having some  
14 problems with depression and wasn't sleeping well, etc. So I  
15 told her, you know, let's get you some help. She said, well,  
16 there is a school counselor, I will go to that. So I checked  
17 with her later and she said, yeah, I'm getting help. But when  
18 I would question her any further, she'd say, I'm not talking  
19 about it, I am not going to talk about it. Well, when she said  
20 she wasn't going to talk about something, she wasn't going to  
21 talk about it.

22 Then when she got to Carolina and was in this program  
23 dealing -- and evidently, from what little she told me, some of  
24 the things that she saw was just horrific. And she really  
25 began to have serious, serious problems. So again I begged her

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1 to get help. I said, we will do whatever it takes. So, again  
2 she told me she was doing that, and again she would not discuss  
3 it, would not -- you'd bring it up and she would refuse to talk  
4 about it.

5 Q. Did Diane have any boyfriends in college?

6 A. She had a boyfriend the first year or two, year and a half,  
7 I don't know. He was a really nice kid. He was from  
8 Connecticut. And she would bring him home to visit. They  
9 broke up. Many times she would bring girlfriends home. I  
10 don't know how many, probably over the years half a dozen  
11 different girls.

12 Then when she was a senior at Duke, she met a boy and  
13 she called me one day and she said, Dad, I have a new  
14 boyfriend. I said OK. She said, I want to bring him over to  
15 meet you. OK. She said, He is Jewish. I said OK. So she  
16 said, I am bringing him over Saturday, but you have to promise  
17 me one thing. You have to promise me you will not discuss  
18 politics. I said, OK, it's no problem.

19 So I am a registered independent. I always thought  
20 you vote for the man. You vote for what's the principle. You  
21 don't vote for the Democrat or the Republican or whatever.

22 So she brings this boy over, and he is there probably  
23 less than five minutes, and he starts pontificating about  
24 politics. And at one point, I am just trying to be as nice as  
25 I can, and then at one point he looks at me and said -- and I

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1 don't know what he and Diane had been talking about, but he  
2 said, I think that you are the type of individual who would not  
3 ever vote for a woman for president, would you?

4 I thought, what is wrong with this guy? Where is he  
5 coming from here? I said, well, actually, yes, I would. He  
6 says, well, it would probably be somebody like Jeane  
7 Kirkpatrick, wouldn't it? Well, you may not know, Jeane  
8 Kirkpatrick at that time was the U.S. Ambassador to the United  
9 Nations. I don't know if it was under Ronald Reagan or who,  
10 but she was known to be more conservative than liberal. And I  
11 said, Yes, I would vote for Jeane Kirkpatrick, no doubt about  
12 it. And I don't remember any of the other conversation, but at  
13 that point I knew me and this boy wasn't going to get along.  
14 It was going to be trouble. And that turned out to be the way  
15 it was, unfortunately.

16 Q. What was that boy's name?

17 A. His name was Ohad Baron Freud.

18 Q. Did you develop any kind of relationship with Ohad after  
19 that first time you met him?

20 A. Nothing positive. Diane had to have a cyst removed. It's  
21 called a pilonidal cyst, and it's right on the end of your  
22 tailbone. And I had had the same problem so I knew what was  
23 involved. And when you have this removed, they don't suture  
24 it. It's left open to drain. It was over the Christmas  
25 holidays and she was at her mother. Her mother and I had been

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1 divorced at that time for quite some time. In fact, we were  
2 divorced eight years before Nancy and I married, and she was  
3 divorced from me nine years before she married her present  
4 husband.

5 So Diane was at her mother's and Ohad was coming from  
6 Duke to visit. He came over on the bus. So I go over and, you  
7 know, trying to be nice, trying to be cordial, involved in  
8 conversation. Then he said, Well, I'm going back to Durham,  
9 and I'm catching the 5:00 bus, and Diane is going with me. I  
10 said, Wait a minute, this incision is still draining. She is  
11 really not in any shape to go, and she should stay here. And  
12 he said, No, I have got to catch this bus. I said, I will tell  
13 you what I will do. I was living in an apartment about a half  
14 a mile from the office so getting to work wasn't a problem. I  
15 said, you take my car and go back to Durham and you come back  
16 next week and pick Diane up. He said, No, we are not going to  
17 do that.

18 Well, as strong an individual as Diane was, she really  
19 changed when she met this guy. Anything that happened -- and  
20 this just makes no sense -- she would defer to any decision  
21 that he made. And they left and caught the bus. It was an  
22 hour's trip to Durham. And they left and caught the bus and  
23 went to Durham.

24 Later on, in talking to Diane, she knew he and I  
25 didn't really get along, didn't see eye to eye, and I told her,

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1 you know, it seems to me if this boy really loved you, if he  
2 really loves you, he wouldn't do this kind of thing. Well,  
3 that just went right over her head.

4 So after a while I learned that the more I said the  
5 worse it was going to be. Any of you that have teenage kids,  
6 they bring a boy or girl home and you say you don't like them,  
7 they love them that much more. So I decided the best thing I  
8 could do is back off. So I did.

9 Then after time passed, I went over to Durham. I told  
10 Diane, look, if you're in love with this boy, if he loves you,  
11 if you're happy with him, then it's OK. I'm not going to  
12 interfere. I am not going to try and talk you out of anything.  
13 I am still hoping in my mind that it wouldn't last, but the way  
14 I left it.

15 Q. Where was Ohad from originally?

16 A. He was from Israel. I don't know where in Israel, but he  
17 was from Israel.

18 Q. At some point, did Diane and Ohad start discussing going to  
19 Israel where Ohad was from?

20 A. Yes. She actually even brought it up a time or two when  
21 she was a senior at Duke, but I thought at that point it's so  
22 early in the relationship it's not going to happen. But then  
23 later on she would bring it up more and more often.

24 After she graduated from Duke, they moved in together.  
25 They were living together. Then the discussion got very

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Carter - direct

1 serious about going to Israel when he finished his doctoral  
2 degree. None of us in the family were happy with that. All of  
3 us expressed our opinion that she not go. She would of course  
4 say, why not? Well, I said, Diane, number one, you're  
5 thousands of miles away in a foreign country; number two, it's  
6 a different culture; number three, it's a different religion;  
7 and, number four, you can get killed over there. I mean, it's  
8 dangerous. And it was, Oh, dad, you're such an alarmist,  
9 nothing is going to happen to me. That was her attitude.

10 Q. What did Ohad and Diane do after they both finished  
11 graduate school?

12 A. He finished with, I think, a Ph.D. in economics. He had a  
13 master's from the London School of Economics, I think it's  
14 called. Anyway, after he finished at Duke, they went to  
15 California probably for about nine or ten months. I don't  
16 recall.

17 Now, before they went to California, I would have  
18 continuing education things to attend in Raleigh at least once  
19 a month. So I would go by and see her, visit with her on the  
20 way, sometimes on the way back, sometimes we would go and eat  
21 supper or get a hamburger or something. But Ohad was never  
22 around. And I would ask, How's Ohad? Well, he's not here. He  
23 had to do a research paper at the library. So he was never  
24 available after that time when I tried so hard to get him to  
25 take my automobile and go back to Durham.

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Carter - direct

1 Q. How did your relationship with Diane change as the months  
2 went by while they were living in California?

3 A. She became more and more distant, and she seemed to be,  
4 when I would talk to her, she would continue to talk about this  
5 depression. She became more and more withdrawn and more and  
6 more difficult to talk to. Her entire demeanor and personality  
7 seemed to take on a whole new persona.

8 Q. Did you have a conversation with her at some point around  
9 your birthday of that year when she was in California?

10 A. I remember it specifically because my birthday is in March,  
11 and I had called her the first week in March or something just  
12 to talk to her. And we are having this conversation, and I  
13 don't recall what we were talking about. I do know it was kind  
14 of strange because she was very difficult to talk to. And then  
15 she just all of a sudden said, Dad, I don't want to talk  
16 anymore. I said, OK, I will call you later. She says, No,  
17 that's not what I mean. I don't want to talk to you anymore.  
18 I said, Diane, what are you talking about? She said, Do not  
19 call me, I will call you when I am ready to talk to you again.  
20 And she hung up. And I thought, boy, she is really mad about  
21 something, but I have absolutely no idea what this is about.

22 Well, you don't take notes when things are happening  
23 like that, but it could have been two days later, it could have  
24 been five days later, her mother calls me. She is all upset.  
25 She says, Diane has just called. I said, Well, she called me a

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1 few days ago. She said, Diane toward the end of the course of  
2 the conversation, and she repeated to me almost verbatim what  
3 Diane had said to me. It was, Mom, I don't want to talk to you  
4 anymore. Do not call me. I will call you when I am ready to  
5 talk to you. And she added, do not, or tell my sister I guess,  
6 for her not to call me either. I am not talking to her. And,  
7 we are leaving for Israel. Hung up.

8 So that was the last conversation I ever had with  
9 Diane.

10 Q. Larry, why do you think that Diane cut off contact with you  
11 and your family?

12 MR. ROCHON: Objection, your Honor.

13 THE COURT: No. He can answer it.

14 A. I don't know.

15 Now, when my wife and I were going through a divorce,  
16 our doctor referred us to a psychiatrist to see if we could  
17 reconcile. I had no problem with that. My sister, older  
18 sister, was a psychiatric nurse and I did not have any of those  
19 preconceived problems of going to see a psychiatrist. So after  
20 six months he said he didn't need to see me anymore.

21 So when this happened, the first thing I did is I  
22 picked up the phone and made an appointment with this  
23 psychiatrist. And I went in, and I told him everything that I  
24 could think to tell him. And I tried to be as honest and  
25 straightforward as I could be. Because I figured, if I am



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Carter - direct

1 going to help Diane, I can't hold anything back. I would tell  
2 him things what I said. I would tell him what made me mad or  
3 our arguments. I told him everything that I could possibly  
4 think of. And I tried not to shade anything at all.

5 I don't know how long this session lasted, but it was  
6 quite some time. And he told me, he said, of course this is a  
7 long-distance diagnosis. I don't know Diane. I have never  
8 talked to her. But he said, from what you are telling me, I  
9 think she is suffering from extreme severe depression. She may  
10 even be a manic depressant.

11 I said, Well what does this mean? He said, by her  
12 cutting you off like that, she has had some type of emotional  
13 episode that has triggered this, and it probably doesn't even  
14 have anything to do directly with you, her mother or her  
15 sister, but she is withdrawing and she is separating her life.  
16 And later on I found when she got to Israel she said she had  
17 started a new life. Her life began when she got to Israel.

18 The psychiatrist scared me to death because he said,  
19 with this kind of individual, he said she can function very  
20 normally. She can hold a job. She can have friends. She can  
21 interact. And nobody may ever know. He said, but if she is  
22 pushed, if she is confronted, if you continue to in any way try  
23 to speak to her or make contact with her like that in a  
24 confrontational way, if you go and see her, you could push her  
25 completely over the edge and she could wind up being one of

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1 these individuals, and his words were, sleeping on a heat grate  
2 in New York City. And that scared me.

3 THE COURT: Do you have another question?

4 Q. Do you think that Ohad also had anything to do with Diane's  
5 decision?

6 MR. ROCHON: Objection.

7 THE COURT: Sustained. I don't see the relevance of  
8 this.

9 Q. Did you try to get in touch with Diane after she and Ohad  
10 moved to Israel?

11 A. Well, what the psychiatrist said, it was there, it kept  
12 ringing, do not, do not, do not. So a couple of years go by,  
13 and I thought, well, I have got to do a little something. Now,  
14 let's just suppose she is in therapy and she is better, or she  
15 has just come through this, and she can accept the fact that we  
16 are her family. I thought it could be a situation where maybe  
17 she is ashamed to get in touch with us or afraid. So I wrote  
18 her a little note and it was like, thinking of you, hoping  
19 you're doing OK, love dad. It was that short. I mailed it.  
20 No response.

21 So a couple of more years go by and the pressure  
22 builds up. So I did that again. No response. Another couple  
23 of years go by. So I wound up with three short notes. You  
24 know, I kept thinking, I know, I know we will reconcile. There  
25 is no doubt in my mind, I know it. We had too much going for

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Carter - direct

1 us when she was a kid, and I know it's going to happen.

2 Now, I don't know where the end point is. It's going  
3 to happen. But I know we are two years closer to that end  
4 point, or we are four years closer to that end point, or we are  
5 eight years closer, but I am closer to that end point than I  
6 was eight years ago. And I know we will reconcile. I have no  
7 doubt.

8 Well, in 2002, in July, I go to my attorney at home,  
9 and I said, Richard, I have got to find a private investigator.  
10 I have got to know that Diane is all right, and I am not  
11 computer savvy, I don't know how to do this. Can you put me in  
12 touch with anybody? Yes, I can, but he is on vacation or out  
13 of the country or something.

14 So then one day he calls me and he said, Here's the  
15 guy's name, here's his phone number. So now I have got the  
16 guy's name and the phone number. So I talked to my wife about  
17 it. I said, you know, I have got to impress on this man not to  
18 approach her, not to let her know, but I have got to know if  
19 she's OK.

20 Q. I just want to ask you, was that man a private detective?

21 A. Yes.

22 Q. Was that private detective ever able to start looking for  
23 Diane?

24 A. No. My wife and I kicked the situation around for a day or  
25 so to be sure of whether I am going to do this. This is a big

F258SOK6

Carter - direct

1 leap, and once you make the leap you can't crawl back off the  
2 ledge, you can't unring the bell once you put it in motion. So  
3 I had to be sure in my mind that I was doing the right thing  
4 and approaching it the right way. So I told my wife, I said,  
5 well, I am going to sleep on this a couple of days. I am 99.9  
6 sure I am going to give this guy a call.

7 It was probably the next day. Nancy and I had been  
8 somewhere. We came in. There was a message on my recorder.  
9 It was a newspaper reporter from Raleigh, North Carolina.

10 MR. MACHNES: I think this is probably a good stopping  
11 point. I think we can stop here.

12 THE COURT: No. I want us to continue for another ten  
13 minutes.

14 MR. MACHNES: OK.

15 Q. Continue.

16 A. It was a newspaper reporter from Raleigh, North Carolina  
17 and he said, I'm looking for information on Dina Carter. Can  
18 you help me? Is she related to you?

19 I looked at my wife, and I said, I don't know any Dina  
20 Carter. I said, Diane has never -- she wasn't in school in  
21 Raleigh. She never worked in Raleigh. They have obviously got  
22 the wrong person, wrong, information, some kind of mix-up.

23 So I go downstairs, go out in the backyard and doing  
24 some work. About 15, 20 minutes later, Nancy comes out and  
25 says, Diane's mother is on the phone. I said, What does she

F258SOK6

Carter - direct

1 want? They say Diane has been killed. I said it can't be  
2 Diane. This guy was asking about Dina.

3 We did not know that Diane had converted to Judaism.  
4 I had no idea that many people when they converted they took a  
5 new name. So in Israel she was known as Dina. To me it was  
6 always her Christian name Diane.

7 So then Diane's mother says, I don't know what to do.  
8 I said, I know a newspaper guy, I will call him. So I called  
9 this guy and he said, well, I know somebody that knows somebody  
10 in the State Department. I will call them. You call the  
11 Israeli embassy. So I did. By now it's like 6:00, 6:30.

12 I call the Israeli embassy in Washington. I get a  
13 nice young man. He says, Yes, there has been an incident.  
14 There was a bomb in the Frank Sinatra cafeteria, but I have no  
15 details. Call back in the morning and talk to the public  
16 affairs official. So I said OK.

17 In the meantime, my friend called and he said, I have  
18 a contact in the State Department. They are going to contact  
19 you sometime today. So I stay up. At 2:30 in the morning, I  
20 get a phone call from a lady with the embassy in Jerusalem and  
21 she said, I regret to inform you that your daughter Diane died  
22 in a terrorist attack in the Frank Sinatra cafeteria July the  
23 31st.

24 I said, Are you sure? No, no, it can't be Diane. So  
25 she told me about the Diane and Dina thing. I said, Well, are

F258SOK6

Carter - direct

1 you sure? She said, Yes, I am sure. I said, How are you so  
2 sure? Because I still wasn't ready to accept it. And she  
3 said, We had to identify her by her fingerprints.

4 Well, that didn't hit me until a couple of days later  
5 and then it was like, my God. You know, the next day there's  
6 reports on TV. They say five Americans were killed. They name  
7 four. Diane is not named. In the newspaper, five Americans,  
8 four are named. Diane is not named. And then it darned on me.  
9 She was so badly mutilated they had to use her fingerprints to  
10 identify her.

11 I talked to the FBI. They said she took the full  
12 brunt of the blast. I said, What was it? He said it was a  
13 bomb. He said it was nails and shrapnel and nuts and bolts.  
14 The way he described it and years later, it's basically the  
15 same thing as the Boston Marathon bombing. Backpack, man walks  
16 away, detonate it with a cell phone. The cafeteria was about  
17 this size and it was absolutely --

18 MR. ROCHON: Your Honor, objection.

19 THE COURT: Overruled. I want to try to finish up  
20 this witness.

21 MR. MACHNES: I don't think we are going to finish  
22 today.

23 THE COURT: How much more do you have?

24 MR. MACHNES: It's probably about 15 or 20 minutes.

25 THE COURT: Let's see if we can do it in 15.

F258SOK6

Carter - direct

1 MR. YALOWITZ: If we can take a break and help the  
2 witness focus.

3 THE COURT: I don't want to have to bring him back  
4 tomorrow if it's not necessary.

5 MR. YALOWITZ: I think if we took a two-minute break  
6 it might help.

7 THE COURT: Would you like a break, sir?

8 THE WITNESS: I'm OK, but if counsel wants to break.  
9 You're the boss.

10 THE COURT: If you're OK, he's OK. Let's try to wind  
11 this up.

12 A. The cafeteria is totally destroyed with the glass contained  
13 and ceilings down, everything.

14 When I talked to the lady from the embassy, she said  
15 she has been killed. I said, OK, what do I need to do to get  
16 her body back to the U.S.? And she said, Well, you can't. She  
17 had told all of her friends, her coworkers, all acquaintances,  
18 that if anything ever happened to her, she wanted to be buried  
19 in Israel. And she said, I hate to tell you, but I am  
20 literally on my way out the door as we speak to go to her  
21 funeral.

22 Q. What was the date at that point, Larry?

23 A. I have to think because when you stay up all night and you  
24 get two hours sleep, you get confused. That was 2:30 a.m. on  
25 August the 2nd.

F258SOK6

Carter - direct

1 Q. And this reporter was on her way to Diane's funeral?

2 A. Yes. It was not a reporter. She was with the embassy in  
3 Jerusalem.

4 Q. Did you have a chance to attend Diane's funeral?

5 A. No. She was literally walking out the door to go to her  
6 funeral.

7 Q. Where was the funeral taking place?

8 A. It was taking place in Jerusalem. I have the name of the  
9 cemetery, but I don't know what it is off the top of my head.

10 Q. What were you thinking in those moments where you knew that  
11 your daughter was being buried in Israel?

12 A. Well, you're totally destroyed. Your mind is all over the  
13 place.

14 The next thing I do is call her mother, tell her.  
15 3:00 in the morning I am writing my daughter's obituary, a  
16 rough draft. I go to sleep at like 5 a.m. and I am up at 6:30  
17 or something.

18 Then I am covered up with reporters and newspaper  
19 people. Greensboro is 250,000 people. By comparison a fairly  
20 small town. And 9/11 a stewardess from Greensboro died in the  
21 plane crash in Pennsylvania. So here is two people within the  
22 course of a year in this town that have a connection to a  
23 terrorist death. So it was monumental. It was on TV all the  
24 time. I had newspaper reporters from Greensboro,  
25 Winston-Salem, Raleigh.



F258SOK6

Carter - direct

1 Q. Did you have a separate funeral for Diane in the United  
2 States?

3 A. No, I did not.

4 Q. Were there community members and friends that supported you  
5 in the days and weeks after her murder?

6 A. For about the next three days, the house was full of  
7 family, friends, the phone was ringing constantly, people were  
8 dropping in. It was pure bedlam. But that was just the  
9 positive things, the people coming. The negative things was  
10 having to deal with the press and TV and all of that. Although  
11 for the most part they were pretty nice.

12 Q. Larry, have you ever had the chance to visit your  
13 daughter's grave in Israel?

14 A. No, I haven't.

15 Q. Why not?

16 A. Well, it's basically two reasons. One is I don't want to  
17 get killed. If I go to Israel, my wife is going to go with me,  
18 my daughter is going to go with me, my son-in-law. To me it's  
19 a war zone and you never know when something is going to  
20 happen. I am constantly checking the Internet. It's kind of  
21 like this thing of wanting to contact her. I will build up to  
22 a point and I will say to my wife, I really need to go, I am  
23 really thinking seriously about it. And then some incident  
24 will happen and it's like, I can't go. The last one was all  
25 the stuff in Gaza. To me it's one of those dangerous things.

F258SOK6

Carter - direct

1 There's nothing I can do for Diane.

2 The other thing, I don't expect you to understand, I  
3 don't expect anybody to understand it, but where I come from,  
4 your mom or your dad dies or anybody dies, and you go to the  
5 cemetery and the casket is there and the preacher says a few  
6 words and says a prayer and the family leaves. And then three,  
7 four hours later, the family all comes back, after the grave is  
8 closed, and it's that final farewell, that final saying  
9 goodbye.

10 Now, I know Diane is dead. I have got the death  
11 certificate. I have a picture of her in her death shroud. I  
12 have a picture of her being lowered into the grave, but I can't  
13 quite bring myself to go to that final step. And I know that  
14 makes no sense, but that's me.

15 Q. Larry, I just want to focus a little bit on how Diane's  
16 murder affects you today.

17 Did you write a poem for Diane at some point?

18 A. Yes, I did. You want me to read it?

19 Q. Do you have it in front of you?

20 A. I do.

21 Q. When did you write that poem to her?

22 A. I wrote it in August of 2003.

23 Q. What does it say?

24 A. "Now you know the answers --"

25 Q. One second.

F258SOK6

Carter - direct

1 MR. MACHNES: Plaintiffs will offer this poem as  
2 Exhibit 1271.

3 MR. ROCHON: Objection.

4 THE COURT: It will be admitted into evidence.

5 (Plaintiffs' Exhibit 1271 received in evidence)

6 Q. Go ahead.

7 A. "Now you know the answers to all the questions asked. Now  
8 you know the reasons for all our earthly tasks. All of lives  
9 mysteries you know the answers to. All I know is I struggle  
10 forever missing you. Now you know the answers. You know I  
11 love you."

12 Q. I just want to show you a couple of pictures now of Diane.

13 Do you have some before you?

14 A. Yes, I do.

15 Q. Is there one of Diane by herself?

16 A. Yes.

17 Q. What is the number that's on the exhibit?

18 A. What is what?

19 Q. What is the sticker number?

20 A. 460.

21 Q. What is that picture?

22 A. This was sent to me by a family in Israel, and they told me  
23 it was made approximately six months before her murder.

24 MR. MACHNES: Plaintiffs offer Exhibit 460.

25 MR. ROCHON: No objection.

F258SOK6

Carter - direct

1 THE COURT: It will be admitted into evidence.

2 (Plaintiffs' Exhibit 460 received in evidence)

3 Q. Where do you keep that photograph, Larry?

4 A. It's on a bookcase at the bottom of the stairs in my house.  
5 Every night when I go up I touch it and in my mind I tell her,  
6 I have made it one more day.

7 Q. I want to take a look at one more. Do you have a  
8 photograph of you and your two daughters at Diane's graduation?

9 A. I don't have that one.

10 MR. ROCHON: I am not going to object. You can put it  
11 up.

12 THE COURT: Are you offering that in evidence?

13 MR. MACHNES: Yes.

14 THE COURT: It will be admitted in evidence. Go ahead  
15 and put it up.

16 MR. MACHNES: It's Exhibit 1233.

17 (Plaintiffs' Exhibit 1233 received in evidence)

18 Q. What is that photograph?

19 A. That's Diane when she graduated from Duke. It's her on the  
20 left. That's her sister Shaun on the right.

21 Q. Thank you. I just want to ask you, Larry, to summarize how  
22 Diane's murder has impacted you or injured you today, if you  
23 could?

24 A. You know, I don't think anybody really has the vocabulary  
25 to say -- I have said many times to different people that you

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Carter - direct

1 often hear the phrase, I wouldn't wish this on my worst enemy,  
2 and I can honestly tell you I wouldn't. The man that murdered  
3 my daughter that set the bomb off had a six-year-old son. I  
4 wouldn't wish this on him. No way.

5 It's the most painful thing in the world. I had a  
6 sister 15 years older than me, we were very close. She died of  
7 cancer at age 55. It hit me really, really hard. And I am  
8 ashamed to tell you that I thought that I knew what my mama was  
9 thinking. I didn't. Losing a child is the single most tragic  
10 thing that can happen in your life. A friend of mine who lost  
11 his daughter to cancer called me one day, a good friend, lives  
12 in Buffalo, New York, having a really rough time. He called me  
13 about a year later and he said, Larry, does this ever get any  
14 better? I said, No, it doesn't. Some days it will be worse.

15 I said, but, Walt, you learn how to deal with it. You  
16 will learn how to handle it better. But it will always, always  
17 be just under the surface. You will laugh again. You will  
18 tell jokes again. You will go to the movies. You will have a  
19 good time. But it's always just under the surface. People  
20 will think life is normal, and it is, but it's a different  
21 normal. It ain't never going to be like it was.

22 Q. Larry, do you have in front of you a couple of sheets that  
23 summarize you and your daughter Shaun's injuries that resulted  
24 from Diane's murder?

25 A. Yes, I do.

F258SOK6

Carter - direct

1 Q. If I could just ask you to summarize your injuries  
2 resulting from your daughter Diane's murder?

3 A. Well, ever since her murder I have become more emotional.  
4 It's one of those things where I come from, men don't cry. I  
5 found out sometimes I can't help it.

6 There is depression that you're always fighting, sort  
7 of digging out of it, some days worse than others. And with  
8 that, you kind of learn how to hide it because you can wear  
9 people out. People do not want to be around someone that is so  
10 remorse or a tragic figure. People get embarrassed. So you  
11 have to be careful what you say and what you do and how you  
12 approach things.

13 You know, it's complete shock and denial. Sometimes I  
14 dream about her, and she is always about 15 or 16 and riding  
15 her bicycle, happy dreams. But when you wake up, it's the  
16 shock again that you're back in reality.

17 The greatest thing, I guess, is loss of hope.

18 MR. MACHNES: Ms. Romeo, would you put up the slide?

19 Q. Larry, I just want to ask you if this is an accurate  
20 summary of what you just described?

21 A. Yes, it is.

22 Q. I just want to quickly do your daughter, Shaun, before we  
23 go on. Can you summarize her injuries related to the murder of  
24 her sister Diane?

25 A. Yes. It's complete shock and denial again. She still has

F258SOK6

Carter - direct

1 some anger, guilt and avoidance.

2 Q. Is that an accurate summary of what you just described?

3 A. Yes.

4 MR. MACHNES: Plaintiffs offer these summary slides as  
5 Exhibit 1273.

6 MR. ROCHON: No objection.

7 THE COURT: They will be admitted in evidence.

8 (Plaintiffs' Exhibits 1273 received in evidence)

9 Q. Larry, why didn't your daughter Shaun come testify here  
10 today?

11 MR. ROCHON: Objection, your Honor.

12 THE WITNESS: Was there an objection?

13 THE COURT: Just a second.

14 Overruled. You can answer.

15 Q. You can answer.

16 THE COURT: You can answer, sir.

17 A. For the last -- it has gotten worse over the last several  
18 years, in that she has gotten to the point where she does not  
19 want to deal with this. She wants to push it off to the side  
20 and categorize it. I think she feels some anger at Diane  
21 because she left, the way she did.

22 To me, I am not angry because how can you be angry  
23 when someone is ill. You don't get angry when someone says  
24 they have cancer or Parkinson's or something. Diane had a  
25 mental problem so I can't be mad at her.

F258SOK6

Carter - direct

1 Shaun also, I think, feels guilt. I moved away. We  
2 kind of lost contact. It's that sort of thing. And she is  
3 compensating by not dealing with it.

4 (Continued on next page)



F25TSOK7

Carter - direct

1 BY MS. MACHNES:

2 Q. I want to show you one more slide that we have, it's a  
3 family tree of you and your two daughters.

4 Is that a photograph of you at the top?

5 A. Yes, it is.

6 Q. And your two daughters below?

7 A. Yes.

8 MS. MACHNES: Your Honor, plaintiffs offer  
9 Exhibit 1243, the family tree.

10 MR. ROCHON: No objection.

11 THE COURT: It's admitted into evidence.

12 (Plaintiff's Exhibit 1243 received in evidence)

13 Q. Larry, what do you feel that you lost on July 31st, 2002?

14 A. You know, I don't think that people stop to think how  
15 strong an emotion hope is, and I always knew we would  
16 reconcile. That hope was so strong that it became a reality.

17 I lost my daughter on July the 31st, 2002, but they  
18 also took from me all my hope. You lose hope, it's hard to  
19 come back. That's what they took from me, my daughter and my  
20 hope, because I knew we would reconcile. I knew it. I always  
21 knew it.

22 MS. MACHNES: Your Honor, nothing further.

23 MR. ROCHON: Your Honor, I need to ask one question  
24 quick.

25 THE COURT: Yes.

F25TSOK7

Carter - cross

1 CROSS-EXAMINATION

2 BY MR. ROCHON:

3 Q. Sir, that last conversation you had with the daughter, the  
4 telephone conversation, that was in 1990, as I understand it?

5 A. It was 1990, yes, March of 1990.

6 MR. ROCHON: Thank you.

7 THE COURT: Anything further?

8 MS. MACHNES: Nothing further.

9 THE COURT: Thank you, Mr. Carter, you can be excused.

10 All right, ladies and gentlemen, I want to thank you  
11 for your indulgence. I wanted to finish this witness today.  
12 We will have not a full day tomorrow, but at this point my best  
13 estimate is after tomorrow we may have five or six days of  
14 testimony at most. We have three days next week, and then so  
15 we'll have a few more days in the week after. So I'm hopeful  
16 that sometime after the President's Day holiday that we'll  
17 finish the testimony during that week. So that's the way we  
18 are.

19 So don't discuss the case, keep an open mind, and  
20 we'll adjourn early tomorrow and see if we can adjourn by  
21 lunchtime. If not, probably by mid-afternoon.

22 Have a good evening.

23 (Continued on next page)

F25TSOK7

1 (Jury not present)

2 THE COURT: You have four witnesses tomorrow?

3 MR. YALOWITZ: Yes.

4 THE COURT: And you anticipate they might be finished  
5 by lunchtime or after?

6 MR. YALOWITZ: I think we'll be finished within an  
7 hour after lunch.

8 THE COURT: Okay.

9 MR. YALOWITZ: I don't want to overpromise.

10 THE COURT: That's fine.

11 MR. YALOWITZ: One other scheduling thing. I'm  
12 expecting tonight I will be able to get you some thoughts on  
13 the jury instructions. I know you're thinking about that. I  
14 hoped to get them to you a little earlier, but it's been a lot  
15 of people this week.

16 THE COURT: I understand. I have been making  
17 significant progress.

18 MR. YALOWITZ: I will get you something tonight, and  
19 then --

20 THE COURT: What I will do is after the plaintiff  
21 rests I will hear the motions. Also I will have to have  
22 discussion with you about exactly what kind of claims you want  
23 to put to the jury, how you want to put those claims. I have  
24 some ideas on that, but depending on my reaction to what you  
25 think is appropriate and what is in the motions we can discuss.

F25TSOK7

1 I have a framework for discussing a verdict form, and I have  
2 pretty much a framework for jury instructions except for the  
3 other things that you raise. And then once you get a chance to  
4 look at what I have, then you can discuss that further.

5 MR. YALOWITZ: That will be great. Then I'll try to  
6 hear from the defendants I hope tonight about that one exhibit  
7 that is still in play.

8 THE COURT: And at this point, Mr. Rochon, how many  
9 days might you use at most?

10 MR. ROCHON: Four or five of testimony. I think it  
11 will spill over to the following week, but not much into it.

12 THE COURT: All right. We'll see if we can finish up  
13 plaintiff's witnesses tomorrow and then we'll talk about -- I  
14 will hear motions and we'll talk about the verdict form and  
15 jury instructions.

16 MR. ROCHON: Judge, tomorrow -- first of all, as to  
17 the timing, we may not file our motion at the close of their  
18 case but at a later point.

19 THE COURT: Okay. Look, it's perfectly appropriate  
20 for me if you want to make your motion for the record, I can  
21 reserve decision on it, and we can address it at another time.

22 MR. ROCHON: Thank you.

23 (Adjourned to February 6, 2015 at 9:45 a.m.)  
24  
25

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